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Supreme Court, U.S.
FILED

① 08 - 857 DEC 22 2008

OFFICE OF THE CLERK

No. ________

In the
Supreme Court of the United States

BOBBY J. BROWN, SR., CAROL A. ERVIN, SHERMAN OUTLER - PETITIONERS

v.

CARL G. FAMBRO, EVARTISTUS OSHIOKPEKHAI, ISAAC EFERIGHE, PAUL HARMON, WINSTON LAWSON, ROY WEST, TYRONE EVANS, and JOHN TURNER RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT STATE OF GEORGIA ON APPEAL FROM THE COURT OF APPEALS OF GEORGIA

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED TO BE REVIEWED

Federal Courts have jurisdiction over federal tax deficiencies. The questions presented for this Honorable Court's review are:

1. Whether State courts have jurisdiction to rule on Federal tax deficiencies arising out of civil dissolution actions.

2. Whether State's court registries are authorized depositaries or agents of the Government to collect, receipt, and dispose of federal taxes.

3. Do Georgia Courts have authority to impose

undetermined attendant taxes on domestic businesses.

PARTIES TO THE PROCEEDING

Petitioners are Bobby J. Brown, Sr., Carol A. Ervin, and Sherman Outler.

Respondents who were Respondents in The Supreme Court State of Georgia below are Carl G. Fambro, Evaristus Oshiokpekhai, Isaac Eferighe, Paul Harmon, Winston Lawson, Roy West, Tyrone Evans, and John Turner.

Respondent who was intervenor in The Supreme Court of the State of Georgia.

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APPENDIX I

Federal and State Constitutional and Statutory Provisions involved:

(1) **Federal Statutes**

Internal Revenue Code, as of 1986 as amended, *et. seq:*

Title 26:
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26 U.S.C. 3121
26 U.S.C. 3402
26 U.S.C. 3403
26 U.S.C. 3505
26. U.S.C. 6301
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Title 48, Revenue and Taxation:
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- O.C.G.A. 48-7-53

PETITION FOR WRIT OF CERTIORARI

Petitioners, Bobby J. Brown, Sr., Carol A. Ervin, and Sherman Outler respectfully petition for a writ of certiorari to review the judgment of the State's highest court in this case.

OPINIONS BELOW

The opinion of the State's highest court to review the merits appears at Appendix A to the petition is unpublished.

The opinion of the State's appellate court appears at Appendix B to the petition and is published.

The Orders of the trial court appears at Appendix C-1 and Appendix C-2, to the petition and is unpublished.

JURISDICTION

The date on which the State's highest court decided my case was entered on September 22, 2008. A copy of the decisions appears at Appendix A-4.

A timely motion for reconsideration was thereafter denied on the following date: October 27, 2008. A copy of the orders appears at Appendix A-1.

The jurisdiction of this Court rests on 28 U.S.C. §1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Federal and State (O.C.G.A.) statutory, and regulatory provisions are set out in a joint appendices to this petition.

STATEMENT OF THE CASE

I.

The case involved the dissolution of Local MG LLC, a Georgia limited liability company, and an intervenor's claim for unpaid salary and employment taxes (against Local Bank of Middle Georgia, I.O). In 2005, respondents petitioned the state's trial court to dissolve the LLC, and pay the debts of the bank. The petitioners countersued seeking damages, and later filed a petition for relief and dissolution. On March 24, 2006, a former employee of the corporation filed a motion to intervene in the civil action to press his claim against the plaintiffs and defendants (members of the company) for lost salary, state and federal tax withholdings[1]; for current fringe and non-cash compensation benefit over the life of the agreement; expenses of litigation, including attorney fees and costs; and for other relief not determined.

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[1] Official Code of Georgia Annotated (O.C.G.A.), Section 9-11-24 (a) (2),(b) (2) this statute confers a conditional right to intervene; when an applicant's claim or defense and the main action have a question of law or fact in common. A person desiring to intervene upon the parties as provided by O.C.G.A. 9-11-5, motion shall state the grounds therefore and shall be accompanied by a pleading setting for the claim or defense for which Intervenor must establish an interest relating to the property or

1. The intervenor acknowledged his most recent employer is Local Bank of Middle Georgia, I.O. and not Local MG LLC.

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transaction which is the subject matter of the action and he is so situated that the disposition of the action may as a practical impair or impeded his ability to protect that interest intervention is sought.

2. The Motion (*See* Section 9), states the intervenor intervened because plaintiffs and defendants had entered into civil litigation regarding the dissolution of LBMG," (Pet. App. E -1; Pet. App. D-1).

II

The civil trial ended December 20, 2006. The trial court ordered the respondents to dissolve the LLC, awarded $92,417.00[2] to the intervenor; $56,916.00 to one of the petitioners, and $25,526.00 to one of the respondents. Cash disbursement would be first, to the intervenor, then to intervenor's attorney, and finally to one of the petitioners, and one of the respondents on a 70% and 30% division until the full amount is paid in full".[3] Pet. App. C-1.

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[2] ($72,656.00 (salary) plus attorney's fees of $8,771.00 and $10,990.00 for attendant taxes and Social Security obligations in connection with Turner's salary)

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[3] Section 12., ORDER, dated March 5, 2007, Superior Court of Houston County Georgia, Case No. 2005-V-82124-N, *Carl G. Fambro, et al v. Local MG LLC, et al*

1. The trial court in awarding the intervenor $92,417.00[4] directed Local MG LLC to pay the corporation's delinquent federal and state withholding taxes to the intervenor. Petitioners appealed the judgment on grounds it was contrary to law and contrary to evidence. Petitioners through a previous counselor (s) filed a motion for new trial. Pet. App.

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[4] Pet. App. C-1, Section 11. The $92,417.00 included $72,656.00 for lost salary, $8,771.00 for attorney's fees of $8,771.00 ,and $10,990.00 for attendant taxes and Social Security obligations in connection with the salary.

D - 2. The trial court issued its ruling on August 6, 2007, stating there is no reason for a new trial in this case, Pet. App. C- 2. Petitioners then appealed to the Court of Appeals of the State of Georgia on the grounds the Court had no legal authority to adjudicate federal tax matters (*e.g.* attendant taxes associated with and social security obligations in connection with the intervenor's unpaid salary; holding petitioners, members of a Georgia limited liability (LLC) company personally liable for the debts of the corporation not party to the civil action[5].

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[5] Civil Action Case No. 2005-V-82124-N,

Pet. App. I - 1.

2. In its written Opinion, the appeals court said "The determination of the amount owed to Turner was, in part, based on Turner's tax obligations, but are not a payment of tax by the guarantors. Rather, the trial court found these amounts were "owed to Turner." The amount to be paid is definite." Pet. App. B. Section 1.

3. This is *contra* to the Federal Insurance Contribution Act.[6] The Act makes no exception to judicial disso-

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[6] 26 U.S.C. Section 3102, Deduction of tax from wages. Requirement.

26 U.S.C. Section 3121, Definitions (a) Wages.

lutions or disputes over delinquent salary and taxes.[7]

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[7] The tax imposed by Section 3101 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid.[7] If a lender, surety, or other person, who is not an employer under such sections with respect to an employee or group of employees, pays wages directly to such an employee or group of employees, employed by one or more employers, or to an agent on behalf of such employee or employees, such lender, surety, or other person shall be liable in his own person and estate to the United States in a

In the April 7, 2008 Opinion of the Court, payment of federal income and withholding taxes to intervenor was to satisfy his tax obligations, not a payment of taxes by the guarantors. [8] Pet. App. B, Section 2.

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sum equal to the taxes (together with interest) required to be deducted and withheld from such wages by such employer. 26 U.S.C., Subtitle C, Chapter 25, Section 3505.

[8] Pet. App. C-1 , Section 11, ORDER dated March 5, 2007, Superior Court of Houston County, Civil Action No. 2005-V-82124-N, *Carl G. Fambro, et al v. Local MG LLC, et al.*

A motion for reconsideration was filed reiterating the trial court has no statutory authority to adjudicate federal tax deficiencies (*e.g.* unpaid social security taxes). The Court denied the Motion.

The petitioners filed a petition for writ of certiorari to Georgia's highest court, presenting the same legal issues presented to the court of appeals. The petition for writ of certiorari was denied, as was petitioners' motion for reconsideration, Pet. App A. The grounds raised; Georgia courts do not have jurisdiction to enforce the Federal Insurance Contribution Act, and other related provisions of 26 U.S.C. The Federal Insurance Contribution Act authorizes *employers, agents, successor employers or a third party* to withhold social security taxes from an employee's salary. Pet. App. I-10.

4. The Internal Revenue Service, as the expert Government agency is given statutory authority to collect Social Security taxes and related taxes under this Act.[9] Taxes withheld from

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[9] 26 U.S.C. Subtitle F. Chapter 64, Subchapter A §6301, Collection Authority. The Secretary shall collect the taxes imposed by the internal revenue laws. *See* "26 U.S.C. Subtitle F, Chapter 64, Subchapter A,

an employee's salary or wages by an

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§6302,(c) Mode of collection, Use of Government depositaries, permits the Secretary to authorize Federal Reserve banks, and incorporated banks, trust companies, domestic building and loan associations, or credit unions as depositaries or financial agents of the United States, to receive any tax imposed under the internal revenue laws, in such manner, at such times, and under such conditions under which the receipt of such tax by such banks, trust companies, domestic building and loan associations, and credit unions is to be treated as payment of such tax to the Secretary.

employer, successor employer, agent or third party are held in trust and are to be deposited with authorized Government depositaries or financial agents.

5. States [registries] are not authorized Government agents or depositaries. The disbursement of withholding tax deposits to the intervenor conflicts with relevant federal statutes; 26 U.S.C.; 26 U.S.C. Section 6302, Pet. App. I-8.

6. The trial court's judicial termination of the limited liability company does not exempt the company from the requirement to file state and fed-

eral tax returns[10]. The LLC is classified for tax purposes as a partnership.[11] Income and expenses are reportable to the Government, and the State's revenue department.

7. In granting the dissolution petition, the trial court made the LLC an agent, and successor employer of the bank and liable for the corporation's

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[10] O.C.G.A. 48-7-53- Partnership returns; contents; oath; "partnership" and" partner" defined, Petitioners Appendix I-15.

required to approve the following matters, *et seq*.

unpaid federal taxes[12]. Federal tax deficiencies are within the jurisdiction of the federal courts. "

8. The Court's Opinion conflicts with 26 U.S.C , Federal Insurance Contribution Act, and the Government's judicial Power.

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[12] The income of two or more corporations shall not be included in a single return except with the expressed consent of the commissioner. A receiver or trustee is required to make returns for the corporation in the same manner and form as the corporation is required to make returns, O.C.G.A. 48-7-51. Pet. App. I-14.

The respondents kept the intervenor on the payroll from June 2005 to March 15, 2006[13]. The intervenor and one of the respondents signed corporate checks to pay his salary and the corporation's creditors.

1. During that time period, no state or federal payroll taxes were withheld by the respondents[14]. The liability for the intevenor's unpaid salary; federal

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[13] Pet. App. E-2, Section 3.2.1.(a) Employer, Termination

[14] 26 U.S.C. Subtitle C, Chapter A-Tax, 3102, on Employees, Deduction of tax from wages require taxes to be withheld from an employee's salary.

and state withholding tax deficiencies lay with the respondents and not the petitioners.[15] Pet. App. I – 4.

2. The respondents deposited and disbursed funds from one of respondent's business checking account, and from the corporation's checking account. Pet. App. G-1 thru G-37. This diversion of members' funds to a personal, and corporate (bank's) checking accounts was brought to the Petitioners attention in October 2006;

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[15] Section 12, March 5, 2007, ORDER, Superior Court of Houston County, *Civil Action No. 2005-V-82124-N, Carl G. Fambro, et al Plaintiffs v. Local MG LLC, et al.*

after the seven respondents petition to dissolve the LLC was entered in the lower court of venue. Moreover, and not as prescribed by state law.

3. The trial court classified these deposits and disbursements as contributions and included them as organizational expenses incurred by members of the limited liability company.

4. This diminished the petitioner (s) prorata distribution shares. Pet. App. C-1.

5. The seven respondents hold the majority vote and could have purchased petitioners interests in the limited liability company.

REASONS FOR GRANTING THE PETITION

1. The state court concluded $10,990 owed in attendant taxes and social security obligations in connection with salary are to be deposited into the state court registry. Federal courts, and Internal Revenue Service *(quasi-judicial)* jurisdiction over federal tax deficiencies and tax matters.

2. The Supreme Court State of Georgia in upholding the court of appeal's ruling has incorrectly overridden

26 U.S.C., Federal Insurance Contribution Act, and abrogated the authority of the Government's expert agency to enforce the Act.

3. The decision grants employees all the rights and duties to act as a financial agent. In paying federal taxes directly to an employee, the liability for tax deficiencies would still reside with the employer, subject to civil or criminal prosecution by the expert federal revenue agency.

4. The judgment may likely determine how federal employment tax deficiencies are resolved by States, and may set precedence in law. An employer is under no obligation to withhold social security taxes from an employee's salary or wages nor pay attendant taxes in association with federal withholding taxes for payment to the U.S. Treasury, instead it becomes employees' responsibility to make those deposits. The Opinion and Order conflict with federal revenue laws.

CONCLUSION

The petition for a writ of

certiorari should be granted.

Respectfully submitted

Bobby J. Brown, Sr.

Bobby J. Brown, Sr,
Pro Se

Sherman Outler

Sherman Outler,
Pro Se

Carol A. Ervin

Carol A. Ervin,
Pro Se

Date: 22nd December 2008

APPENDIX A

THE SUPREME COURT OF THE STATE OF GEORGIA

ORDERS

SUPREME COURT OF GEORGIA

Case No. S08C1632 Atlanta, October 27, 2008

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

CAROL A. ERVIN v. JOHN TURNER et al.

Upon consideration of the Motion for Reconsideration filed in this case it is ordered that it be denied.

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

I hereby certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Theresa S. Barnes /S/, Clerk

Petitioners
Appendix A-1

SUPREME COURT OF GEORGIA

Case No. S08C1637 Atlanta, October 27, 2008

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

SHERMAN OUTLER v. JOHN TURNER et al.

Upon consideration of the Motion for Reconsideration filed in this case it is ordered that it be denied.

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

I hereby certify that the above s a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Theresa S. Barnes /S/, Clerk

Petitioners
Appendix A-2

SUPREME COURT OF GEORGIA

Case No. S08C1638 Atlanta, October 27, 2008

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

BOBBY J. BROWN, SR. v. JOHN TURNER et al.

Upon consideration of the Motion for Reconsideration filed in this case it is ordered that it be denied.

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

I hereby certify that the above s a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Theresa S. Barnes /S/, Clerk

Petitioners
Appendix A-3

SUPREME COURT OF THE STATE OF GEORGIA

CLERK'S OFFICE

ATLANTA

Date: September 22, 2008

Carol A. Ervin
158 Solomon Road
Kathleen, GA 31047

Case No. S08C1632

CAROL A. ERVIN v. JOHN TURNER et al

COURT OF APPEALS CASE NO.
A08A0393, A08A0394, A08A0395, S08C1638, SO8C1637

The Supreme Court today denied the petition for certiorari in this case.

All the Justices concur.

Theresa S. Barnes /S/, Clerk

Petitioners
Appendix A-4

SUPREME COURT OF THE STATE OF GEORGIA

CLERK'S OFFICE

ATLANTA

Date: September 22, 2008

Sherman Outler
114 Elmdale Drive
Bonaire, GA 31005

Case No. S08C1637

SHERMAN OUTLER v. JOHN TURNER et al

COURT OF APPEALS CASE NO.
A08A0395, A08A0397, S08C1638, SO8C1632

The Supreme Court today denied the petition for certiorari in this case.

All the Justices concur.

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Theresa S. Barnes /S/, Clerk

Petitioners
Appendix A-4

SUPREME COURT OF THE STATE OF GEORGIA

CLERK'S OFFICE

ATLANTA

Date: September 22, 2008

Bobby J. Brown
253 Deloris Drive
Fort Valley, GA 31030

Case No. S08C1638

BOBBY J. BROWN, SR. v. JOHN TURNER et al

COURT OF APPEALS CASE NO.
A08A0395, A08A0396, S08C1637, SO8C1632

The Supreme Court today denied the petition for certiorari in this case.

All the Justices concur.

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Theresa S. Barnes /S/, Clerk

Petitioners
Appendix A-4

APPENDIX B

COURT OF APPEALS OF THE STATE OF GEORGIA ORDERS

1. Appendix B-1, Order, Motion for Reconsideration, May 30, 2008
2. Appendix B-2, Opinion, April 7, 2008

Court of Appeals
of the State of Georgia

ATLANTA,
MAY 30, 2008

The Court of Appeals hereby passes the following order:

A08A0393, ERVIN v. TURNER et al.
A08A0394, ERVIN v. TURNER et al.
A08A0395, ERVIN et al v. TURNER et al.
A08A0396, BROWN v. TURNER et al.
A08A0397, OUTLER v. TURNER et al.

This Court having considered the motions for reconsideration filed by appellants in the above –referenced appeals, it is hereby ordered that said motions be DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAY 30 2008
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.
William L. Martin, III /S/, Clerk

Petitioners
Appendix B-1

FOURTH DIVISION
SMITH, P. J.,
MIKELL and ADAMS, JJ.

NOTICE: Motions for reconsideration must be *physically received* in our clerk's office within ten days of the date of decision to be deemed timely filed. (Court of Appeals Rule 4(b) and Rule 37 (b), February 21, 2008)
http: //www.gaappeals.us/rules/

April 7, 2008

In the Court of Appeals of Georgia

A08A0393. ERVIN v. TURNER et al.
A08A0394. ERVIN v. TURNER et al.
A08A0395. ERVIN et al v. TURNER et al.
A08A0396. BROWN v. TURNER et al.
A08A0397. OUTLER v. TURNER et al.

MIKELL, Judge.

Carl G. Fambro, Evaristus Oshiokpekhm, Isaac "Eferighe, Paul Harmon, Winston Lawson, Roy West, and Tyrone Evans (the "plaintiffs") filed a petition for equitable relief against Local MG, LLC (the "LLC"), and Carol

A. Ervin, Bobby J. Brown, Sr., and Sherman Outler, among others (collectively, the defendants")[1]. The trial court subsequently allowed appellee John L. Turner to intervene to assert a claim for unpaid salary. The plaintiffs sought, among other things, the dissolution of the LLC, an accounting of the LLC's finances, and a declaratory judgment defining the rights and obligations of the parties under their Organizer Contribution Agreement. Following a bench trial, the trial court awarded Turner $92,417, and determined the amounts the plaintiffs and defendants either owed or were entitled to be reimbursed under the Contribution Agreement. The trial court also granted the petition for dissolution of the LLC.

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[1] Raymond Corbin was named as a defendant but is not an appellant. Joe Ervin, General Granville, and Eugene Merriday were also named or added as defendants but were dismissed as parties before trial.

In Case Nos. A08A0393, A08A0396, and A08A0897, Ervin, Brown, and Outler, respectively, appeal the trial court's judgment filed March 6, 2007, and the August 6, 2007 order denying their motion for new trial. In Case No. A08A0394, Ervin appeals from the trial court's August 28, 2007 order dismissing her motion to set aside the judgment. In Case No.A08A0395, Ervin, Brown, and Outler appeal from the trial court's August 28, 2007 order dismissing Ervin's motion to set aside. All the appeals are pro Se. We have consolidated the appeals into this opinion. We affirm the judgment in all cases for the reasons set forth below.

Viewed in a light most favorable to the trial court's findings,[2] the evidence shows that this dispute arose from the efforts of the plaintiffs and defendants

to form

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2 See *Realty Lenders v. Levine*, 286 Ga. App. 326, 326-327 (649 SE2d 333) (2007) (on appeal from the entry of judgment in a bench trial, evidence is viewed in light most favorable to the trial court's findings of fact).

a bank to be known as the Local Bank of Middle Georgia. Plaintiffs and the individual defendants[3] were signatories to an Organizer Contribution Agreement (the "Contribution Agreement") in which they agreed to underwrite the organizational expenses of the bank. The parties agreed that if the efforts to form the bank failed or the project was abandoned, "each Organizer will be responsible for his or her pro rata portion of all organizational expenses paid, plus those for which the Organizers have become liable." The

LLC was created to handle the bank's start-up operations and business dealings.

After the bank received its charter, the bank hired Turner to be its president. Under the employment agreement, Turner was entitled to continue to receive his base salary of $8,333 a month in the event the bank's board of directors decided to forego efforts to open the business. This severance obligation was personally guaranteed by the plaintiffs and the individual defendants, including appellants Brown, Ervin, and Outler.

The LLC paid Turner's salary through June of 2005, and certain of the plaintiffs continued to make payments to Turner through January of 2006.

Meanwhile, a rift developed between the plaintiffs and defendants after the officers of the LLC, of which Ervin was the chairman, were not chosen to continue as officers of the bank. After efforts to sell bank stock were subsequently unsuccessful, a majority of the organizers decided to cease further attempts to raise capital in June of 2005, and so the bank venture failed. The plaintiffs subsequently filed this action to determine the organizers' responsibilities under the Contribution Agreement and to dissolve the LLC.

The trial court determined that the plaintiffs and defendants, collectively, had previously contributed $418,346 to the bank organization venture. The trial court further concluded that the plaintiffs and defendants, as guarantors of Turner's employment contract, owed Turner $92,417, which amount constituted $72,656 in remaining salary, $10,990 to account for tax and social security obligations in connection with the salary, and $8,771 in attorney's fees. The trial court then calculated that, pursuant to the Contribution Agreement, each individual plaintiff's and defendant's pro rata share of the $510,763 total contribution expenses was $46,433. By comparing this pro rata share to each party's previous contributions, the trial court calculated the amounts either owed to or owed by each plaintiff and defendant. Those persons who owed money were ordered to pay the amounts into the superior court registry, with disbursements to be made first to Turner and his counsel and then to Ervin and Fambro, who were the only persons who had contributed more than their pro rata share. The trial court subsequently denied the defendants' motion for a new trial and then dismissed Ervin's motion to set aside the judgment. These appeals followed.

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[3] Plaintiffs constitute seven of the original thirteen parties to the Contribution Agreement. The other six signatories were appellants Brown, Ervin, and Outler, as well as Corbin, Granville, and Merriday.

superior court registry, with disbursements to be made first to Turner and his counsel and then to Ervin and Fambro, who were the only persons who had contributed more than their pro rata share. The trial court subsequently denied the defendants' motion for a new trial and then dismissed Ervin's motion to set aside the judgment. These appeals followed.

Case No. A08A0393

1. In her first claim of error, Ervin contends that "the superior court lacks

jurisdiction and erred in adjudication of attendant taxes and fees infinite." She argues that the trial court erred in finding members of the LLC directly liable for Turner's unpaid social security taxes, in failing to define the extent of the tax liability, and that jurisdiction for the determination of the tax liability lay with the federal courts. As authority for these arguments, Ervin shows that the employer is liable for withholding FICA taxes, and "and shall not be liable to any person for the amount of any such payment."[4] She also points to 18 USC § 3231, which provides that "[t]he district courts of the

United States shall have original jurisdiction, exclusive of the courts of the States, of all offenses against the laws of the United States."

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[4] 26 USC § 3403.

We find no merit in Ervin's arguments. The trial court concluded that the guarantors of Turner's employment contract, including Ervin, were responsible for paying his severance package. Ervin does not show these amounts were computed in error. The determination of the amount owed to Turner was, in part, based on Turner's tax obligations, but are not a payment of tax by the guarantors. Rather, the trial court found these amounts were "owed to Turner." The amount to be paid is definite. Ervin's jurisdictional argument fails inasmuch as this case does not involve an offense against the laws of the United states. We find no error.

2. Ervin claims that the trial court erred in holding her, as a member and manager of the LLC, liable "for the debts of the corporation not party to the civil action." She relies on OCGA § 14-11-303, which provides that "[a] person who is a member. . . of a limited liability company is not liable, solely by reason of being a member,.. . for a debt, obligation, or liability of the limited liability company. . . .or for the acts or omissions of any other member." Evans's arguments are misplaced

because her liabilities arose from her contractual obligations as a party to the Contribution Agreement and as a personal guarantor of Turner's employment agreement and not on account of her interest in the LLC.[5]

3. Ervin contends that the trial court improperly dissolved the LLC. We disagree. The plaintiffs and the defendants, including Ervin, petitioned the trial court to dissolve the LLC. The trial court then directed that the LLC be dissolved in accordance with OCGA § 14-1 1-603. This statute provides, in applicable part, that "[o]n application by or for a member, the court may

decree dissolution of a limited liability company whenever it is not reasonably practicable to carry on the business in conformity with the articles of organization or a written operating agreement."[6] Given that the plaintiffs and defendants agreed that the LLC be dissolved, the trial court did not err in concluding that it was not reasonably practicable to carry on the business. To the extent Ervin contends that the trial court otherwise erred, her arguments are unsupported by reference to the record or not relevant to the order of dissolution.

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[5] In her reply brief Ervin makes several new substantive arguments which were not asserted in her appellate brief. However, "[Ervin] may not, in [her] reply brief, assert a completely new argument that was not made in [her] original enumerations of error." (Footnote omitted.) *Miners v. State, 250* Ga. App. 443, 446 (3) *(550* SE2d *725)* (2001).

[6] OCGA § 14-11-603 (a).

4. Ervin contends that the trial court erred "when it treated the LLC as if [it] had converted to a corporation when it merged the corporation's debts with LLC expenses in its dissolution action." We fail to see that such a conversion or merger is reflected by the trial court's order.

5. Ervin claims that the trial court erred in allowing Turner to intervene to assert his claim for unpaid salary because Turner's claim was unrelated to the plaintiffs' petition for equitable relief. We disagree.

OCGA § 9-11-24 (b) (2) provides that anyone may be permitted to intervene in an action "[w]hen an applicant's claim or defense and the main action have a question of law or fact in common." In the main action, the plaintiffs asked for a judgment declaring the rights and obligations of the parties to the Contribution Agreement. The guarantors of Turner's employment contract were also signatories to the Contribution Agreement. Turner was hired as president of the bank to be organized pursuant to the Contribution Agreement. Given that there were questions of law or fact in common and defendants fail to show any undue delay or prejudice to the rights of the original parties, the trial court did not abuse its discretion in allowing Turner to intervene.[7]

6. Ervin further contends that the trial court erred in denying her motion for a new trial, although her arguments on appeal are not addressed to the merits of the trial court's decision to deny the motion. Rather, she argues that the trial court erred by requiring the defendants post a $75,000

supersedeas bond or have their appeal dismissed. However, this appeal having been heard, "the matter of the bond is moot."[8] We note that although the defendants apparently did not post the supersedeas bond, a failure to post a supersedeas bond does not, as a general rule, bar the appeal.[9] Ervin shows no grounds for overturning the trial court's denial of her motion for new trial.

Case Nos. A08A0394 and A08A0395

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[7] See, e. g., *Allgood v. Ga. Marble Co.*, 239 Ga. 858, 859(239 SE2d 31) (1977) ("[w]hether permissive intervention should be granted is a

question addressed to the sound discretion of the trial court") (citations omitted).

[8] (Citation omitted.) *Ruskin v. AAF-Mc Quay, Inc.*, 284 Ga. App. *49,53 (2)* (643 SE2d 333) (2007).

[9] Id. Accordingly, we deny Turner's motion to dismiss the appeal. We also deny Turner's motions to dismiss the appeals in Case Nos. A08A0394, A08A0395, A080396, and A08A0397. We further deny the defendants' corresponding motions to dismiss Turner's motions to dismiss.

7. In these appeals, Ervin, Brown, and Outler contend that the trial court erred in dismissing Ervin’s motion to set aside’° the trial court’s order filed March 6, 2007. Pretermitting whether Brown and Outler have standing to appeal the dismissal, we disagree. The trial court dismissed Ervin’s motion to set aside because it was made pro se while she was represented by counsel.” The record shows that Ervin’s attorneys, who had represented her in the proceedings on motion for new trial, did not move to withdraw from representation until after she filed her

motion to set aside and after the trial court's order dismissing the motion to set aside. "[Ervin] cannot attempt to represent herself by filing pro se pleadings, while at the same time she is represented by counsel of record."[2] Ervin contends that her attorneys withdrew from their representation before she filed her motion to set aside, and she faults her

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[10] In substance, this was a motion for new trial because it did not assert grounds for setting aside the judgment under OCGA § 9-11-60 (d). See *Martin v. Williams*, 263 Ga. *707,708 (1)(438 SE2d 353)(1994)*. Turner's contention that the defendants were required to appeal by discretionary application is therefore unfounded. See id.

[11] Ervin represented herself at trial, but she was represented by counsel in the motion for new trial.

[12] *Jacobsen v. Haldi,* 210 Ga. App. 817, 819 (1) (437 SE2d 819) (1993). See also *Seagraves v. State, 259* Ga. 36,39(376 SE2d 670) (1989) ("layperson does not have the right to represent himself and also be represented by an attorney") (citation omitted).

attorneys for not filing a timely motion to withdraw. But even if there were fault on the part of Ervin's counsel in failing to file a timely motion to withdraw, it does not demonstrate any error on the part of the trial court.

Case Nos. AO8A 0396 and A08A039

8. In these cases, Brown and Outler appeal from the trial court's March 6, 2007 judgment and its August 6, 2007 order denying defendants' motion for new trial. Their first six claims of error and associated arguments. mirror those asserted by Ervin and considered in

Divisions 1 through 6 supra'[13] For the same reasons, we find no error.

9. Brown and Outler also contend that the trial court erred by not enforcing the March 6, 2007 judgment by requiring plaintiff Tyrone Evans to pay *$33,405*. They argue that as of October 23, 2007, Evans had failed to comply with the trial court's order. However, these claims are not supported by reference to the record. Further, Brown and Outler fail to show that any error by the trial court is responsible for

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[13] Brown and Outler claim that (i) the superior court lacked jurisdiction and erred in awarding taxes and fees; (ii) erred in holding them personally liable for the debts of a

corporation not party to the civil action, (iii) erred in dissolving the LLC, (iv) erred in merging corporate debt with LLC expenses, (v) erred in allowing Turner to intervene, and (vi) erred in denying defendants' motion for new trial.

Evans's purported failure to abide by the judgment. Accordingly, we find no merit in this argument.

10. Brown and Outler further maintain that the trial court erred in including plaintiffs' unauthorized expenditures in calculating the total amount of contributions, particularly $2,497 in certain advertising costs, $4,340 in certain lease costs, and $2,544 for an administrative assistant's salary. We disagree.

Brown and Outler provide no reference to the record to assist this Court in assessing whether these expenses were unauthorized by the

Contribution Agreement. In the March 6, 2007 order, the trial court wrote that "[a] lthough there was some dispute as to the propriety and necessity for some of the expenses that were incurred and paid, the conclusion of the Defendants that certain expenses were not necessary is unsupported by any of the evidence presented." Brown and Outler do not show otherwise. "Upon appellate review, factual findings made after a bench trial shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses."[14]

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[14] (Citation and punctuation omitted.) *Sam 's Wholesale Club v. Riley*, 241 Ga. App. 693 (527 SE2d 293) (1999).

Brown and Outler do point out by reference to the record that certain funds were deposited by the plaintiffs in the "FRANCARS INC" account rather than the LLC account. However, the trial court heard evidence regarding the FRANCARS account, and the record shows that disbursements from this account, particularly to Turner, were related to the bank venture contemplated by the Contribution Agreement. Inasmuch as we may not overturn the trial court's findings of fact if supported by any evidence,'[5] we cannot conclude that the trial court erred in finding that certain funds deposited by the plaintiffs into this account were contributions for purposes of the Contribution Agreement.

For the foregoing reasons, we find no error in the orders appealed.[16]

Judgment affirmed Smith, P. J., and Adams, J., concur.

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[15] *McDilda v. Norman W. Fries, Inc.*, 278 Ga. App. 51 (628 SE2d *195)* (2006) ("[o]n appeal, a trial court's factual findings in a bench trial must be deferred to when supported by any evidence") (citation omitted).

[16] Plaintiffs' and Turner's motions for frivolous appeal sanctions are denied in all cases.

APPENDIX C

Superior Court of Houston County, State of Georgia ORDERS

1. Appendix C-1, Order, March 5, 2007, Civil Action Civil Case –*Carl G. Fambro, Evaristus Oshiokpekhai, Isaac Eferighe, Paul Harmon, Winston Lawson, Roy West, Tyrone Evans vs. Local MG LLC, Carol A. Ervin, Bobby J. Brown, Sr., Raymond Corbin, and Sherman Outler*, Civil Action No. 2005-V-82124-N, date filed March 6, 2007

2. Appendix C-2, Order, Motion for New Trial, August 6, 2007; date filed (entry) August 6, 2007.

IN THE SUPERIOR COURT OF HOUSTON COUNTY STATE OF GEORGIA

CARL G. FAMBRO,
EVARISTUS OSHIOKPEKHM,
ISAAC EFERIGHE,
PAUL HARMON,
WINSTON LAWSON,
ROY WEST, and TYRONE EVANS,

Plaintiffs,

CIVIL ACTION
FILE NO.: 2005-V-82124-N

v.

LOCAL MG, LLC,
CAROL A. ERVIN,
BOBBY J. BROWN, SR.,
RAYMOND CORBIN, and
SHERMAN OUTLER

Defendants,

and

JOHN TURNER,

Intervenor.

ORDER

The above-captioned Petition for Equitable Relief, Accounting, and

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HOUSTON COUNTY
MAR 6 2007
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Dissolution was filed on July 29, 2005, and arises out of a failed attempt on the part of the Plaintiffs and four of the Defendants to form a local minority-owned bank in Middle Georgia to be known as the Local Bank of Middle Georgia. There were three other additional Defendants named in the Plaintiffs' Petition: Eugene Merriday, General Granville, and Joe Ervin. Mr. Merriday and Mr. Granville were subsequently dismissed as parties after it was shown that neither Mr. Merriday nor Mr. Granville had a substantial role, other than possibly very early involvement, in the formation of the bank. Mr. Ervin was named as a Defendant because he had a security interest in property that was owned by the LLC,

and had attempted to foreclose on that interest. The parties resolved their dispute with Mr. Ervin, and he was subsequently dismissed by agreement.

On September 22, 2005, Defendants filed their Answer and Counterclaim to Plaintiffs' Petition. Defendants' Answer was filed on their behalf by their counsel of record, Mr. Clarence Williams, III. On October 11, 2005, Mr. James Rockefeller entered an appearance on behalf of Defendants. On November 7, 2005, Mr. Williams moved this Court to withdraw as Counsel of record, which was granted by the Court. On

November 16, 2005, Mr. Alan Lubel and Ms. Kim Phipps entered appearances on behalf of Defendants. On March 24, 2006, John Turner moved the Court to Intervene as a party to this case having a claim for unpaid salary under a Contract of Employment to serve as President of the Local Bank of Middle Georgia, which was guaranteed by both Plaintiffs and Defendants. Mr. Turner's application to intervene in the case was granted by the Court over Defendants objections. On May 11, 2006, Defendants filed separate entries of appearance to appear before this Court *pro se*. A bench trial was held on December 20, 2006, at which time the Court heard testimony and received evidence from Plaintiffs and Defendants.

Having considered the record in this case, the evidence, testimony, and argument of counsel, the Court makes the following findings and rulings:

1. Under the Organizer Contribution Agreement dated September 6, 2003 (the “Agreement”), each Organizer was to contribute a minimum sum of $12,500.00 to an “organizational expense fund.” Furthermore, the Agreement required that: “ upon receiving at least three business days notification from the treasurer, each of the Organizers will promptly contribute additional funds to the venture for the purpose of

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paying organizational expenses." The Agreement also provided that, once the anticipated Bank was chartered, initial capitalization would be accomplished through a public offering of Bank stock, and upon completion of the public offering, each Organizer would be reimbursed for the organizational expenses advanced by that organizer. In the event that the offering of stock was unsuccessful or the Organizers voted to abandon the project, then the organizational expenses were to be borne by all of the Organizers, with each Organizer assuming his or her "pro rata" portion of all organizational expenses paid plus those for which the Organizers have become liable.

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2. As a partial step to forming a bank, the Organizers also formed the Local MG, LLC (the "LLC"), which was designed to handle the Bank's start-up operations and business dealings. The LLC also controlled all of the Organizers' funds paid pursuant to the Contribution Agreement. Defendant Carol Ervin assumed the role of President of the LLC, while Defendant Bobby Brown, Jr. served as the Treasurer and Plaintiff Dr. Evaristus Oshiokpekhai served as the Secretary.

3. On or about June 28, 2004, the Bank's formation plan and application was approved by the Georgia Department of

Banking and Finance (hereinafter "DBF"). The Bank then began planning for commencement of operations by retaining a President, John L. Turner. On August 31, 2004, a written contract was signed by the Bank. Mr. Turner was retained at a base salary of $8,333.00 per month which was to continue for a period of twenty-four (24) months in the event that the Board of Directors decided to forgo future efforts to open the Bank. Mr. Turner's Employment Agreement was signed by Mrs. Ervin as Chairman of the Board of Directors of the Bank and personally guaranteed by all of the Bank's Directors (Bobby J. Brown, Sr., Raymond Corbin, Isaac

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Eferighe, Carol A. Ervin, Tyrone A. Evans, Jr., Carl G. Fambro, Paul Harmon, Winston Lawson, Evaristus I. Oshiokpekhai, Sherman Outler, Willie R. West).

4. In addition, on September 1, 2004, as chairman of the Bank's Board of Directors, Mrs. Ervin negotiated and, on the Bank's behalf, entered into an Escrow Agreement with the Bankers Bank in Atlanta, Georgia to establish an escrow for funds forwarded by subscribers of stock shares.

5. By this time, the Bank had been instructed by the DBF to transition from operations in the name of the LLC to operations in the name of the Bank. To assist this, Mrs. Ervin also negotiated with Bankers' Bank, on the Bank's behalf, to

secure a line of credit for the Bank to finance the remaining pre-opening phase expenses for the Bank. Bankers' Bank required that al of the Bank Directors guarantee this line.

6. Beginning in approximately November of 2004, shortly after receiving approval from the DBF, a rift developed between the organizers/directors. On November 8, 2004, the Directors of the Bank held a Board meeting for the stated purpose of identifying a treasurer and secretary as bank' officers for the Line of Credit with Bankers Bank. At that time, discussion was also held regarding elections for new officers of the Bank, to which Mrs. Ervin objected to changing officers. Ultimately, as a result of

the elections, the new officers were elected as follows: Chairman—Dr. Osh, Vice-Chair—Mr. Lawson, Treasurer—Mr. West, and Secretary—Mr. Fambro. Mr. Brown and Mrs. Ervin objected to all of the elections except the Chairman position. Following this meeting, based on the meeting minutes, the Defendants, Mrs. Ervin, Mr. Brown, Mr. Outler, and Mr. Corbin became increasingly disconnected from the Bank.

7. The separation between the LLC and the Bank became a point of increasing tension. Mrs. Ervin wrote the DBF dated November 24, 2004 calling for a formal investigation into both the Bank and the LLC regarding the line of credit transaction. There was a question in the mind of some Board members whether the LLC was working in conjunction with or against the Bank. A move was made to transfer the land and office building from the LLC to the Bank, which was to be accomplished at the law offices of Kushinka, Calhoun, and Godwin, LLP in Warner Robins, Georgia. Unfortunately, after presentation of the Bankers Bank paperwork to the Directors,

Defendants Carol Ervin, Mr. Brown, and Mr. Outler refused to sign the documents citing increased liability for them for any future loans created by the Bank. Thus, the transfer was not made and the land remained an LLC asset.

8. The Bank never mustered the stock subscriptions required for the endeavor and mandated by DBF. Nevertheless, while the Bank was still in the process of soliciting stock subscriptions, on April 25, 2005, Mrs. Ervin, on behalf of Mr. Brown, Mr. Outler, Mr. Corbin, and herself, wrote the DBF inquiring as to whether they could continue on with the organization and sale of the stock in the event that the requisite capital

was not raised by the DBF deadline. This request was ultimately mooted by the Board majority's decision to discontinue the stock subscription process.

9. The Bank effort failed, and the Parties appeared before this Court seeking to have this Court judicially dissolve the LLC and determine the Organizers' responsibilities for various debts that had accrued as a result of the Bank's efforts to open. Based on the evidence and testimony presented, this Court finds that the Organizers contributed funds to the Bank to cover start-up expenses as follows:

(Plaintiff) Carl Fambro	$71,959.00
(Plaintiff) Paul Harmon	$40,708.00
(Plaintiff) Winston Lawson	$24,600.00
(Plaintiff) Isaac Eferighe	$20,334.00
(Plaintiff) Roy West	$22,334.00
(Plaintiff) Dr. Evaristus Oshiokpehkai	$40,434.00
(Plaintiff) Tyrone Evans	$13,028.00
(Defendant) Carol Ervin	$103,349.00
(Defendant) Bobby Brown	$27,500.00
(Defendant) Sherman Outler	$22,600.00
(Defendant) Raymond Corbin	$31,500.00
	$418,346.00

10. The total amount contributed by all Organizers to the venture is $418,346.00, all of which has been used to pay expenses of

the LLC and/or the Bank. Although there as some dispute as to the propriety and necessity for some of the expenses that were incurred .and paid, the conclusion of the Defendants that certain expenses were not necessary is unsupported by any of the evidence presented. Defendants put forth no evidence that any expense was inappropriate, unapproved, or unnecessary to the effort being made by those involved tıp get the Bank started. Therefore, this Court finds that the $418,346.00 represents the total amount that the Organizers, collectively, contributed toward valid and approved bank start-up expenses.

11. The Court also finds that, pursuant to

Mr. Turner's employment contract with the Bank, which was guaranteed by all of the Organizers, the Organizers are responsible for the Intervenor, John Turner's, remaining salary due under the contract and attendant fees and costs that he has claimed in the amount of $72,656.00 plus attorney's fees of $8,771.00. The Organizers are also liable for $10,990.00 to Mr. Turner to pay attendant taxes and Social Security obligations in connection with Mr. Turner's salary. Thus, Mr. Turner is entitled to receive the sum of $92,417.00.

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12. Incorporating these additional figures into the total from above, the grand total of the Organizer contributions is $510,763.00, shown as follows:

Total Organizer contributions without John Turner's Expenses	$418,346.00
Amount owed to Turner for salary	$72,656.00
Amount owed to Turner for taxes and Social Security	$10,990.00
Amount owed for Turner's attorney's fees	$8,771.00
Grand Total	**$510,763.00**

This total of expenses actually paid, plus expenses owed, is $510,763.00, and when this figure is divided equally by eleven (11)

Organizers, it comes to $46,433.00 that each individual Organizer is obligated for to ensure that each Organizer has participated in an equal amount with the others. The Court has compared the $46,433.00 to the amount that each individual Organizer had previously paid in (as noted above), and this has enabled the Court to determine who still, owes money and how much, and who is entitled to be reimbursed money, and how much. These amounts are as follows:

1. Carol Ervin will be reimbursed $56,916.00
2. Carl Fambro will be reimbursed$25,526.00
3. Paul Harmon owes $5,725.00
4. Dr. Evaristus Oshiokpehkai owe$5,999.00
5. Raymond Corbin owes $14,933.00

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6. Bobby Brown owes	$18,933.00
7. Winston Lawson owes	$21,833.00
8. Sherman Outler owes	$23,833.00
9. Roy West owes	$24,099.00
10. Issac Eferighe owes	$26,099.00
11. Tyrone Evans owes	$33,405.00

Total in account after everyone (3-11) pays:

$92,417.00

13. As is shown by the above figures, only Organizers Carol Ervin and Carl Fambro will receive money back and everyone else will be required to pay additional money into the registry of the Court in order to take care of the remaining expenses to Mr. Turner and reimburse Mrs. Ervin and Mr. Fambro.

The parties that are determined to owe money, as shown above, are hereby **ORDERED** to pay the amounts due into the Registry of the Houston County Superior Court within ninety (90) days of the date of the Court's initial ruling, February 5, 2007. Therefore, the funds are due to the Court's registry by **May 5, 2007**. Disbursement will then be made as follows: First, to John

Turner as salary, along with the amount owed for taxes and Social Security owed on the amount paid to him ($83,646.00); Second, to Ralph Martin (counsel for John Turner) as attorney's fees ($8,771.00); Third, to Carol Ervin and Carl Fambro on a ‘p0% to Ervin and 30% to Fambro division until the full amount is paid in full.

IT IS FURTHER ORDERED, that Plaintiffs' request for dissolution of the LLC is GRANTED and the Court hereby directs dissolution pursuant to O.C.G.A. § 14-11 - 603(). The Plaintiffs shall wind up the affairs of the LLC pursuant to O.C.G.A. § 14-11-604 and consistent with this Order and file the appropriate statements with the Secretary of

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State allowed under O.C.G.A. § 14-11-606 and/or O.C.G.A: § 14-11-610.

SO ORDERED, this the 5 day of March, 2007.

George F. Nunn, Jr. /s/
The Honorable George F. Nunn, Jr.
Judge, Superior Court of Houston
County Houston Judicial Circuit

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IN THE SUPERIOR COURT OF HOUSTON COUNTY

STATE OF GEORGIA

CARL G. FAMBRO; EVARISTUS OSHIOKEPKHM; ISAAC EFERIGHE; PAUL HARMON; WINSTON LAWSON; ROY WEST; TYRONE EVANS,
Plaintiffs,

C A# NO.:
2005-V-
82124-N

VS.

LOCAL MG. LLC; CAROL A. ERVIN BOBBY J. BROWN, SR.; GENERAL GRANVILLE; RAYMOND CORBIN; EUGENE MERRIDAY; SHERMAN OUTLER; and JOE ERVIN,
Defendants.

ORDER

Having considered the arguments made by counsel for the Defendants, it is the opinion of this Court that the issues raised by the

Defendants on the Motion for New Trial are the same issues that were raised by the Defendants at the non-jury trial of the case on December 20, 2006. At that trial the Defendants were not represented by counsel, as they had elected to proceed Pro Se.

I have reviewed portions of the transcript from the trial and I remain convinced that there is no reason for a new trial in this case. The Defendants were all Organizers/Directors in a failed attempt to start a new bank. It is unfortunate that the effort was not successful and it is unfortunate that the Organizers/Directors invested and lost money in the failed venture. Some of the Defendants were officers of the proposed new bank for a time, and were subsequently voted out of office by the Directors, but all of the Organizers/Directors (consisting of all Plaintiffs and Defendants) continued as Directors of the bank; all signed the Organizer Contribution Agreement; and all signed the guarantee for the salary of Mr. Turner, the CEO of the bank.

They all agreed to be equally liable and to share equally in the profits, if any, of the venture. When the Defendants were voted out of office by the Plaintiffs, they became upset, and a fatal rift developed among the organizers, which ultimately led to the complete collapse of the organizational effort.

There have been several Court hearings and efforts made to resolve this matter, but in the end the Court believes that the equal sharing of the expenses incurred by all the Organizers is the only fair and proper way to resolve this dispute. This is in fact what all the parties agreed to at the very outset when they signed onto the Organizer Contribution Agreement. This Court has calculated the total costs and expenses of the effort; has set forth the amount owed to and from the various individuals involved; and remains convinced that this resolution is correct.

Defendants' Motion for New Trial is hereby DENIED and Defendants are required to post a $75,000.00 Supersedeas

Bond within 30 days of the date of this order or the appeal will be dismissed.

So Ordered, this 6 day of August, 2007.

George F. Nunn, Jr./s/
George F. Nunn, Jr.
Judge, Houston Superior Court

APPENDIX D

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1. Appendix D-1: Substitute Petition for Equitable Relief Accounting and Dissolution, August 1, 2005, Superior Court of Houston County, Georgia, Civil Case – *Carl G. Fambro, Evaristus Oshiokpekhai, Isaac Eferighe, Paul Harmon, Winston Lawson, Roy West, Tyrone Evans vs. Local MG LLC; Carol A. Ervin; Bobby J. Brown, Sr.; General Granville; Raymond Corbin; Eugene Merriday; Sherman Outler; and Joe Ervin,* Civil Action No. 2005-V-82124-N, date filed August 1, 2005

2. Appendix D-2, Motion for New Trial, March 9, 2007; date filed (entry) March 9, 2007.

IN THE SUPERIOR COURT OF
HOUSTON COUNTY
STATE OF GEORGIA

CARL G. FAMBRO; EVARISTUS OSHIOKPEKHM; ISAAC EFERIGHE; PAUL HARMON; WINSTON LAWSON; ROY WEST; TYRONE EVANS,

Plaintiffs,

CIVIL ACTION FILE

vs.

NO.: 2005-V-82124-N

LOCAL MG, LLC; CAROL A. ERVIN; BOBBY J. BROWN, SR.; GENERAL GRANVILLE; RAYMOND CORBIN; EUGENE MERRIDAY; SHERMAN OUTLER; and JOE ERVIN,

Defendants.

"SUBSTITUTE" PETITION FOR EQUITABLE RELIEF, ACCOUNTING, AND DISSOLUTION

Petitioners
Appendix D-1

COME NOW the above Plaintiffs, and file this equitable petition showing in support thereof the following:

(a)

BACKGROUND FACTS

1.

In September of 2003, a number of interested investors located in the Middle Georgia area decided to take the necessary steps to form a new bank in Warner Robins, Georgia, to be known as the Local Bank of Middle Georgia("LBMG").

Prior to obtaining a Charter from the State Department of Banking and Finance, the initial investors executed and "Organizer Contribution Agreement" which is attached hereto as Exhibit "A". Four of the above-listed Plaintiffs signed the Agreement, and all of the defendants (except Mr. Joe Ervin) signed. Subsequently, three additional investors joined in the efforts Mr. Winton Lawson, Mr. Roy West, and Mr. Tyrone Evans, each of which signed an amendment to the "Organizer Contribution Agreement" or alternatively, agreed orally to be bound by its terms.

2.

As explained in more detail later, each of the persons participating as an "organizer" agreed to invest a minimum cash sum equal to $12,500.00, and to remain liable for any expenses or loans in excess thereof on a pro rata basis. In addition, each organizer agreed to purchase stock in the new bank once a state banking charter was issued. The amounts of stock purchased varied among the organizers.

3.

Also in September of 2003, nine of the organizers formed "Local MG, LLC" a Georgia limited liability company (hereinafter the "LLC"). The LLC was formed to further facilitate the organization and establishment of a state chartered bank in Warner Robins. The LLC also borrowed money from CB&T Bank of Middle Georgia in Warner Robins to finance the acquisition of two lots in Warner Robins, Georgia, which were intended for the Bank office.

4.

Although none of the Plaintiffs have seen a copy of the Promissory Note executed in favor of CB&T, and have not seen any demand from the Bank, the Plaintiffs are aware that Mr. Joe Ervin (the husband of Carol Ervin) has apparently paid off the note, taking an Assignment of the Promissory Note and the Security Deed. Mr. Ervin is currently advertising a foreclosure of the Security Deed for Tuesday, August 2, 2005.

(b)

PARTIES

5.

The defendant, Carol Ervin, resides at 158 Solomon Road, in Kathleen, Houston County, Georgia, and is subject to the jurisdiction of this Court. Her husband, Joe Ervin resides at the same address and is subject to the jurisdiction of this Court.

6.

Defendant, Bobby J. Brown, Sr. resides at 253 Debris Drive in Fort Valley, Peach County, Georgia and is subject to the jurisdiction of this Court under O.C.G.A. §9-10-30.

7.

Defendant, General Granville, is a resident of 205 Madrid Street in Warner Robins, Georgia and is subject to the jurisdiction of this Court.

8.

Defendant, Raymond Corbin is a resident of Roberta, Crawford County, Georgia, and is subject to the jurisdiction of this Court pursuant to O.C.G.A. § 9-10-30.

9.

Defendant, Eugene Merriday, is a resident of 3215 Kingsdale Drive, Atlanta. Fulton County, Georgia, 30311, and is subject to the jurisdiction of this Court under O.C.G.A. § 9-10-30.

10.

Defendant, Sherman Outler, is a resident of 114 Elmdale in Bonaire, Houston County, Georgia and is subject to the jurisdiction of this Court.

11.

The LLC is also subject to the jurisdiction of this Court.

12.

Venue is proper under O.C.G.A. § 9-10-30 because this petition seeks equitable relief and is filed in the county of residence of at least one defendant against whom such relief is sought. Moreover, the venue is proper with respect to request for injunctive relief because the foreclosure proceeding is pending in Houston County, Georgia.

(c)

INJUNCTIVE RELIEF

13.

The Plaintiffs show that they have not been kept informed by Mr. Joe Ervin, Carol Ervin, or any of the other Defendants as to the business transactions of either the LLC or its loans with various banks. No notice, demand or proof of default has been received

14.

Because of the failures of Joe and Carol Ervin and lack of notice given by them, plaintiffs further allege on information and belief .that the land which Defendant Joe Ervin is foreclosing, has been improved and may have equity over and above the indebtedness owed under the Deed to Secure Debt. If the property is offered for sale at foreclosure, a third person may purchase, and the equity will be lost, Alternatively, if Mr. Joe Ervin purchases the property, any equity that may exist would be available only if Plaintiffs were able to establish that the foreclosure should be rescinded after the fact.

15.

Plaintiffs show that they face immediate and irreparable loss unless the foreclosure is stayed until the various, obligations and liabilities among the Plaintiffs arid the

Defendants can be satisfactorily resolved by this decision.

DECLARATORY RELIE F ACCOUNTING AND DISSOLUTION

16.

Plaintiffs are uncertain which of the Defendants have made contributions to the LLC or in the Organizational efforts, and which have not. Plaintiffs are further unsure of the amount of any organizational contributions.

17.

Plaintiffs pray that all of the debts and obligations of the LLC, the chartered bank, or any other person affiliated with the proposed Bank be determined, and that an

Order be entered requiring some parties to contribute additional funds, and allowing other parties to receive a refund, with the net result that everyone will have the prorata or same investment, and further with the result that all outstanding bills, expenses and other obligations will be satisfied in full,

18.

It is further prayed that the LLC be dissolved, all of its assets be distributed prorata to the organizers, and the Court declare the rights and obligations of the parties to this proceeding.

WHEREFORE, Plaintiffs pray that they be granted a temporary restraining order, interlocutory injunctive relief and permanent injunctive relief as may be necessary to preserve the assets of the LLC, and that the Court order an accounting, declaratory relief and dissolution such that all of the organizers will be treated on a financial prorata basis and all debts and obligations of the LLC or the organizational effort will be paid and resolved in full.

This 1st day of August 2005.

Thomas C. James, III /s/
THOMAS C. JAMES, III
Georgia State Bar No. 389400

G. Grant Greenwood /s/
G. GRANT GREENWOOD
Georgia State Bar No. 309166
Attorneys for the Plaintiffs

JAMES, BATES, POPE & SPIVEY, LLP
P. O. Box 4283
Macon, Georgia 31208-4283
Telephone (478) 742-4280
Fax: (478)742-8720

Comes now the undersigned, and after being duly sworn, deposes and says that the facts set forth in the foregoing petition are true and correct to the best of undersigned's knowledge and belief.

Carl G. Fambro /s/
Carl G. Fambro

Sworn to and subscribed before
Me this 28 day of July, 2005.

Notary Public

JENNIFER M. SINDELL
MAY
31
2008

Jenniefer M. Sindell /s/

ORGANIZER CONTRIBUTION AGREEMENT

This Agreement is entered into as 6 Sept' 2003, among the Organizers (as defined below) of a proposed banking association to be located in Warner Robins, Georgia (the "Bank").

RECITALS

1. The undersigned organizers of the Bank, and those who may hereafter join in the execution of this agreement as additional organizers of the Bank at the invitation of the original organizers (collectively, the "Organizers"), have agreed to join together for the purpose of preparing and filing an application with either the Department of Banking and Finance, or the

Office of the Comptroller of the Currency and with the FDIC (collectively the "Regulators') to organize the Bank and, if deemed desirable, a. holding company for the Bank

2. The Organizers have agreed among themselves to underwrite the organizational and pre-opening expenses of the Bank, subject to being reimbursed out of the proceeds of the initial capitalization of the Bank

3. The Organizers desire to divide among themselves responsibility for payment of such expenses in the event the proposed organization of the Bank is unsuccessful.

[redacted]

STATEMENT OF AGREEMENT

In consideration of the premises, the Organizers hereby agree as follows

1. This agreement must contain a minimum of seven (7) Organizers before becoming effective. Each of the Organizers shall contribute a sum of cash equal to $12,500.00 to an organizational expense fund to be maintained by a treasurer elected by the Organizers. The treasurer shall be elected by a majority of the votes cast by the Organizers, with each Organizer casting one vote. From time to time upon receiving at

least three business days notification from the treasurer, each of the Organizers will promptly contribute additional funds to the venture for the purpose of paying organizational expenses. In addition, each of the Organizers shall execute a line of credit to be established by the venture, with each Organizer assuming a pro rata portion of the liability under the line of credit. The total liability of all Organizers pursuant to the line of credit and the cash contribution together shall not exceed $500,000.00, unless the Organizers by unanimous vote elect to raise the ceiling.

2. The treasurer shall keep accurate books of account of his or her collections and expenditures, and shall expend

organizational funds only for salaries and benefits, filing fees, legal and other professional and consulting fees, option or earnest money on property selected for the Bank's premises, and other expenses incidental to the organization and planning of the Bank and the holding company, if one is organized to acquire and own the capital stock of the Bank. The books of account maintained by the treasurer shall be open to inspection by any Organizer at any reason able time, and the treasurer shall furnish monthly reports of his or her collections and expenditures to the Organizers.

3. It is contemplated that upon preliminary approval by the Regulators of

the application to organize the Bank, the initial capitalization will be accomplished through a public offering of common stock of the Bank or its holding company, if applicable. Upon completion of the offering, it is contemplated that the holding company or Bank will promptly reimburse the Organizer for the organizational expenses advanced by them.

4. The venture shall be managed by the Organizers as a group, with fundamental business decisions to be made by majority vote of the Organizers, with each Organizer having one vote. Other management decisions of the venture shall be made as the Organizers may agree.

5. (a) Each of the Organizers

contemplates *that* he or she will purchase a dollar amount of stock as is set out beside his or her name below. This is a non-binding statement of intent, and the stock of the Bank or holding company will be sold only pursuant to a prospectus that complies with all applicable Federal and State laws after the Bank has received preliminary approval to organize.

(b) if the application to organize does not receive preliminary regulatory approval, or the offering of stock is not successful in raising the minimum capitalization required to open the Bank, or if the Organizers by majority vote elect to abandon the project, then the organizational expenses will be borne by all of the Organizers. In any of such events, then each Organizer will be responsible for his or her pro rata portion of all organizational expenses paid, plus those for which the Organizers have become liable. The amount of any deficit due the organizational expense fund or any surplus from the expense fund which may be reimbursed to the Organizers shall be computed by the treasurer and shall be promptly paid after rejection of the application or abandonment of the project.

(c) The Organizers acknowledge that the organizational expenses of the Bank were $65,304.36 as of 6 September, 2003.

6. If any Organizer shall at any time determine to abandon the project, upon written notice to the treasurer of

his or her decision, he or she shall be entitled to a refund of any contribution made to the venture, provided that such refund shall be made at the same time that the other Organizers are reimbursed for their contribution. Such an abandoning Organizer shall remain liable for his or her pro rata portion of any loans (whether or not made prior to the notice of abandon merit) made under a line of credit established prior to the treasurer's receipt of the notice of abandonment described above, except to the extent that the institution issuing the line of credit releases such Organizer from liability for loans made after receipt of such notice. In addition, if the Organizers are not fully reimbursed for their contributions, an abandoning Organizer shall be entitled to a refund of a pro rata portion of his other contributions based on such Organizer's share at the time of withdrawal. If the Organizers are required to contribute additional funds to satisfy the line of credit, any abandoning Organizer shall be required to contribute additional funds to satisfy such Organizer's liability under the line of credit to the extent the abandoning Organizer remains liable as described above.

7. This Agreement may be executed by the Organizers in two or more counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

8. This Agreement will remain open for execution by additional Organizers who are invited to join the organizing group by the unanimous consent of the original Organizers

IN WITNESS.WHEREOF, the Organizers have executed this Agreement as of the date first written above,

Name and Address (Telephone Number)	Date	Anticipated Stock Purchase
CAROL A. ERVIN 158 Solomon Road Kathleen, GA. 31047 (478) 988-8038	September 6, 2003	$200,000.00 Carol A. Ervin /s/ (signature)
EVARISTUS OSHIOKPEKHM 105 Wexford Circle Bonaire, GA	September 6, 2003	$50,000.00 Evaristus Oshiokpekhm, DPM, M* /s/

31005 (478) 922-5805		(signature) *not able to decipher print.
Isaac Eferighe 2711 Pierce Ave N. Macon, GA, 31204 (478) 742-9162	September 6, 2003	$50,000.00 Isaac Eferighe/s/ (signature)
Bobby J. Brown, Sr. 253 Deloris Drive Fort Valley, GA 31030 (478) 825-7544	September 6, 2003	$100,000.00 Bobby J. Brown, Sr./s/ (signature)
Carl G. Fambro 4376 Log Cabin Dr Macon, GA 31204	6 Sep 03	$50,000.00 Carl G.

(478) 474-7333		Fambro, /s/ Signature
General Granville 205 Madrid St Warner Robins, GA (478) 929-3197	6 Sept 03	$63,500 General Granville /s/ (Signature)
Raymond Corbin Rte 1 Box 4047 Roberta, Georgia 31078	6 Sept 03	$100,000.00 Raymond Corbin, /s/ (signature)
Eugene Merriday 3215 Kingsdale Dr. Atl., GA. 30311 (404) 699-2227	6 Sept 03	$1,000.00 Eugene Merriday /s/ (signature)
Paul Harmon 2191 Columbus RD. Lizella, GA.	6 Sept. 03	$100,000 Paul Harmon,/s/

31052 (478) 935-2724		(signature)
Sherman Outler 114 Elmdale Bonaire, Ga. 31005 (478) 988-9646	17 Sept. 03	$100,000 Sherman Outler, /s/ (Signature)
Winston Lawson 506 Heritage Dr. Warner Robins, Ga. 31093 (478) 923-8679	4/3/04	$50,000.00 Winston Lawson, /s/ (Signature)
W. Roy West 154 Weatherby Dr. Macon, Ga. 31210 (478) 471-7817		$50,000 W. Roy West, /s/ (Signature)
Tyrone A. Evans	4/5/04	$50,000.00 Tyrone A.

4005 Warren St.

Milledgeville, GA 31061

(478) 453-7336

Evans, /s/

(Signature)

IN THE SUPERIOR COURT OF HOUSTON COUNTY

STATE OF GEORGIA

CARL G. FAMBRO, EVARISTUS OSHIOKPEKHM, ISAAC EFERIGHE, PAUL HARMON, WINSTON LAWSON, ROY WEST, and TYRONE EVANS,

Plaintiffs,

vs.

Civil Action No.: 2005-V-82124-N

LOCAL MG, LLC, CAROL A. ERVIN, BOBBY J. BROWN, SR., RAYMOND CORBIN, and SHERMAN OUTLER,

Defendants,

and

JOHN TURNER,

Intervenor,

Petitioners
Appendix D-2

MOTION FOR NEW TRIAL

COMES NOW, LOCAL MG, LLC, CAROL A. ERVIN, BOBBY J. BROWN, SR., RAYMOND CORBIN, and SHERMAN OUTLER, defendants in the above-styled action, by and through their undersigned counsel, and hereby move this Honorable Court to set aside its findings of fact and conclusions of law, and the judgment entered thereon on the 5th day of March, 2007, and to grant defendants a new trial on the following grounds:

(1) The judgment is contrary to law; and

(2) The judgment is contrary to evidence.

WHEREFORE, Defendants pray that these grounds be inquired of by the Court and that a hearing be held and that a new trial be granted.

Defendants, through their new counsel, shall file an amendment specifying errors when counsel has had an opportunity to review the trial transcript

Respectfully submitted, this 9th day of March , 2007.

G. Sam Burnette /s/
G. Sam Burnette
State Bar No. 096201

B. Dave Driggers/s/
B. Dave Driggers
State Bar No. 230414

Burnette & Driggers, LLC
582 Mulberry Street
Macon, Georgia 31201
(478) 743-4300

CERTIFICATE OF SERVICE

I hereby certify that I have this day served counsel for the State with Defendants' Motion for New trial by hand delivering a true and correct copy of same to:

Mr. Tommy James
Mr. Grant Greenwood
James, Bates, Pope & Spivey
Post Office Box 4283
Macon, Georgia 31201
Attorney for Plaintiffs

Mr. Ralph Martin
Post Office Box 310568
Atlanta, Georgia 31131
Attorney for Intervenor

This 9th day of March ,2007.

B. DAVE DRIGGERS /S/
B. DAVE DRIGGERS
State Bar 230414
Attorney for Defendants

Burnette & Driggers, LLC

582 Mulberry Street
Post Office Box 1033
Macon, Georgia 31202-1033
(478) 743-4300

APPENDIX E

1. Appendix E-1: Intervenor's Motion to Intervene as Claimant against Plaintiffs and Defendants, March 24, 2006, Civil Case –*Carl G. Fambro, Evaristus Oshiokpekhai, Isaac Eferighe, Paul Harmon, Winston Lawson, Roy West, Tyrone Evans vs. Local MG LLC; Carol A. Ervin; Bobby J. Brown, Sr.; General Granville; Raymond Corbin; Eugene Merriday; Sherman Outler; and Joe Ervin,* Civil Action No. 2005-V-82124-N, March 24, 2006, date filed March 27, 2006.

2. Appendix E-2, EXHIBIT to Intervenor's Motion to Intervene, Employment Agreement , date filed March 27, 2006.

IN THE SUPERIOR COURT OF
HOUSTON COUNTY
STATE OF GEORGIA

CARL G. FAMBRO, EVARISTUS OSHIOKPEKHM, ISSAC EFERIGHE, PAUL HARMON, WINSTON LAWSON, ROY WEST, TYRONE EVANS,

CIVIL ACTION NO.2005-V-82124-N

Plaintiffs,

Vs.

LOCAL MG, LLC, CAROL A. ERVIN, BOBBY J. BROWN, SR., GENERAL GRANVILLE, RAYMOND CORBIN, EUGENE MERRIDAY, SHERMAN OUTLER, and JOE ERVIN,

Defendants,

Petitioners
Appendix E-1

INTERVENOR JOHN TURNER'S MOTION TO INTERVENE AS CLAIMANT AGAINST PLAINTIFFS AND DEFENDANTS

Comes now JOHN TURNER, as intervenor, and moves the Court to intervene as a claimant, pursuant to Official Code of Georgia Annotated, section 9-11-24, against plaintiffs and defendants, in order to assert his action for breach of employment contract, set forth in his proposed complaint, of which a copy is hereto attached, on the ground that he is being irreparably damaged by, said breach and default.

Intervenor further moves to intervene on the ground that questions of law and fact are common to the main action, and that this Court should exercise its discretion allowing intervention.

(SIGNATURE ON NEXT PAGE)

FILED IN OFFICE, SUPERIOR COURT OF HOUSTON COUNTY -MAR 27 2006

Bonnie Bozeman, /s/ **Deputy Clerk**

Respectfully submitted,

S. RALPH H. MARTIN, JR. /s/

S. RALPH H. MARTIN, JR.
Georgia Bar. No. 47410
Attorney for Intervenor John Turner

P.O. Box 310568
Atlanta, Georgia 31131
404/349—2908

IN THE SUPERIOR COURT OF HOUSTON
COUNTY STATE OF GEORGIA

CARL G. FAMBRO, EVARISTUS
OSHIOKPEKHM, ISSAC EFERIGHE,
PAUL HARMON, WINSTON LAWSON,
ROY WEST, TYRONE EVANS,

Plaintiffs,

vs. CIVIL ACTION NO.
2005—V—82124-N

LOCAL MG, LLC, CAROL A. ERVIN,
BOBBY J. BROWN, SR., GENERAL
GRANVILLE, RAYMOND CORBIN,
EUGENE MERRIDAY, SHERMAN
OUTLER, and JOE ERVIN,

Defendants,

JOHN TURNER, INTERVENOR

FILED IN OFFICE, SUPERIOR COURT OF
HOUSTON COUNTY
MAR 27 2006
BONNIE BOZEMAN, /S/, Deputy Clerk

INTERVENOR'S BRIEF IN SUPPORT OF MOTION TO INTERVENE

ARGUMENT

Under Official Code of Georgia Annotated, section 9-11-24, upon timely application, anyone shall be permitted to intervene in an action when a statute confers an unconditional right to intervene. Where applicant claims an interest relating to the property or transaction which is the subject matter of the action, or if applicant is so situated that disposition of the action may impair or impede his ability to protect that interest, intervention should be allowed.

Permissive intervention is permitted at the discretion of the court, when an applicant's main claim and the main action have a question of law or fact in common. See O.C.G.A. § 9-11-24 (b) (2); Coker Properties, L.P. v. Brooks, et al, etc., 278 Ga.

638, 604 S.E. 2d 766, 2004 Ga. Lexis 915, 2004 FCDR 3417 (2004).

It is respectfully submitted that intervenor should be allowed to intervene the main action because he is a primary claimant in the dissolution, severely affected by the disposition of the case.

Given the default of the employment contract by the parties, and failure to guarantee as provided in the agreement, this intervention is the only means by which intervenor's interest is protected.

Based upon the foregoing, intervenor respectfully submits that the motion to intervene should be granted.

Respectfully submitted,

S. Ralph Martin, Jr. /S/

S. RALPH MARTIN, JR.

Georgia Bar No. 474100

Attorney for Intervenor John Turner

P.O. Box 310568
Atlanta, Georgia 31131
404/349—2908

IN THE SUPERIOR COURT OF HOUSTON
COUNTY STATE OF GEORGIA

CARL G. FAMBRO, EVARISTUS
OSHIOKPEKHM, ISSAC EFERIGHE,
PAUL HARMON, WINSTON LAWSON,
ROY WEST, TYRONE EVANS,

Plaintiffs, CIVIL ACTION NO.
2005-V-82124-N

vs.

LOCAL MG, LLC, CAROL A. ERVIN,
BOBBY J. BROWN, SR., GENERAL
GRANVILLE, RAYMOND CORBIN,
EUGENE MERRIDAY, SHERMAN
OUTLER, and JOE ERVIN,

Defendants,

JOHN TURNER, INTERVENOR

INTERVENOR'S COMPLAINT FOR BREACH OF CONTRACT

Comes now JOHN TURNER, and, as intervenor in the above styled civil action, shows this honorable Court the following, in support of his complaint:

1.

Plaintiffs and Defendants are organizers and directors of Local Bank of Middle Georgia (LBMG). All are subject to the jurisdiction of this Court.

2.

Each of the plaintiffs and defendants executed an Organizer Contribution Agreement which is attached to plaintiff's complaint in case number 2005—V—82124N.

3.

On or about August 31, 2004,"the intervenor entered into an employment agreement with LBMG, with the, named plaintiffs and defendants signing the agreement as individuals and guarantors for the purpose of guaranteeing the contingent obligation of the employee under section 3.2.1 (a) of the agreement.

4.

A copy of the agreement is attached, marked exhibit "1," and is incorporated herein by reference.

5.

Intervenor shows that he was induced to enter into the agreement in reliance on the assurances made by guarantors that if the project failed, his salary would be guaranteed under certain conditions.

6.

On August 31, 2004, intervenor resigned from a stable position with Carver State Bank of Savannah, Georgia, as Executive Vice-President in further reliance on the agreements made by the plaintiffs and defendants, and on August 31, 2004, commence serving in the capacity of executive.

7.

The duties of the intervenor included day to day operation of the bank, and generating sales of stock to the public.

8.

Exhibit "A" attached to exhibit 1 referenced in paragraph 4 hereinabove of this complaint prevides a detailed description of intervenor's duties as executive.

9.

During August, 2005, the plaintiffs and defendants entered into civil litigation regarding the dissolution of LBMG.

10.

During that same time period, business discontinued and the dissolution process was directed by this Court.

11.

The parties to this action are in default of the employment agreement, and in violation of this Court's directives.

12.

The agreement is a binding contract between LBMG, and the plaintiffs, defendants, and intervenor.

13.

The plaintiffs and defendants had the actual and apparent authority to enter into said agreement and to bind LBMG, and to bind themselves individually and as guarantors.

14.

The parties were in the normal course of business, and induced intervenor to commute to middle Georgia from his residence in Atlanta, Fulton County, Georgia.

15.

At all times relevant hereto, intervenor performed his obligations under the agreement fully and in good faith.

16.

Notwithstanding intervenor's compliance with the terms of his employment agreement, plaintiffs and defendants jointly and severally breached the contract in the following respects:

a) Taxes (June through December 31, 2005)	$8,000
b)Vacation and sick days (15) unpaid	$7,374
c) Pay periods unpaid;	
12/30/05	$2,350
1/15/06	$3,650 + taxes
1/30/06	$3,650 + taxes
2/15/06	$3,650 + taxes
2/28/06	$3,650 + taxes
3/15/06	$3,650 + taxes

17.

Intervenor shows that the sums stated in the preceding paragraph are continuing.

18.

Plaintiffs and defendants have been stubborn and litiguous, and have put intervenor to unnecessary trouble and expense, and are, therefore, liable to intervenor for his expenses of litigation, including his reasonable attorney's fees and expenses.

WHEREFORE, intervenor prays for judgment against plaintiffs and defendants, and for judgment:

(a) for his lost salary of $20,600.00, and

(b) for state and federal tax withholdings;

(c) for current fringe and non—cash compensation benefit over the life of the agreement;

(d) for intervenor's expenses of litigation, including his reasonable attorney's fees and costs; and

(e) for such other and further relief as this Court deems meet and proper.

Respectfully submitted

S. Ralph Martin, Jr. /s/

Georgia Bar No. 4741097

Attorney for Intervenor John Turner

P.O. Box 310568

Atlanta, Georgia 31131

404/349—2908

EMPLOYMENT AGREEMENT

THIS AGREEMENT' is made as of the 31st day of August, 2004 by and among LOCAL BANK OF MIDDLE GEORGIA (In Organization) (the "Bank"), a proposed state bank, organized under the laws of the State of Georgia (the Bank is referred to hereinafter as the "Employer"), the individuals signing this Agreement as guarantors (the "Guarantors"), solely for the purpose of guaranteeing the contingent obligation of the Employer under Section 3.2.1 (a) of the Agreement and JOHN L. TURNER, a resident of the State of Georgia (the "Executive").

1

RECITALS:

The Employer desires to employ the Executive as President and Chief Executive Officer of the Employer and the Executive desires to accept such employment.

The Guarantors desire to be parties to the Agreement solely to guarantee the contingent obligation of the Employer under Section 3.2.1(a) of the Agreement.

In consideration of the above premises and the mutual agreements hereinafter set forth, the parties hereby agree as follows:

1. Definitions. Whenever used in this Agreement, the following terms and their variant forms shall have the meaning set forth below:

1.1 "Affiliate" shall mean any business entity which controls the Employer, is controlled by or is under common control with the Employer.

1.2 "Agreement" shall mean this Agreement and any exhibits incorporated herein together with any amendments hereto made in the manner described in this Agreement.

1.3 "Area" shall mean the geographic area within the boundaries of

Houston, Bibb, Peach, Twiggs, Macon, Dooly, and Crawford counties, Georgia. It is the express intent of the parties that the Area as defined herein is the area where the Executive performs services on behalf of the Employer under this Agreement.

1.4 "Business of the Employer" shall mean the business conducted by the Employer, which is the business of commercial banking.

1.5 "Cause" shall mean:

1.5.1 With respect to termination by the Employer:

(a) A material breach of the terms of this Agreement by the Executive, including, without limitation, failure by the Executive to perform his duties and responsibilities in the manner and to the extent required under this Agreement, which remains uncured after the expiration of thirty (30) days following the delivery of written notice of such breach to the Executive by the Employer. Such notice shall (i) specifically identify' the duties that the Board of Directors of the Employer believes the Executive has failed to perform; (ii) state the facts upon which the Board of Directors of the Employer made such determination; and (iii) be approved by a resolution passed by two-thirds (2/3) of the Board of Directors of the Employer then in office;

(b) Conduct by the Executive that amounts to fraud, dishonesty or willful misconduct in the performance of his duties and responsibilities hereunder

which is intended to cause, causes or is reasonably likely to cause material harm to the Employer (including harm to its business reputation), or conduct that is materially disruptive to the orderly conduct of the Employer's business operations (including, without limitation, substance abuse or sexual misconduct);

(c) Arrest for, charged in relation to (by criminal information, indictment, or otherwise), or conviction of the Executive during the Term of a crime involving dishonesty, breach of trust, moral turpitude, or fraud;

(d) Conduct by the Executive that amounts to gross and willful insubordination or inattention to his duties and responsibilities hereunder; or

(e) The receipt of any form of notice, written or otherwise, that any regulatory agency having jurisdiction over the Employer intends to institute any form of formal or informal regulatory action against the Executive or the Employer, provided that the Board of Directors of the Employer determines in good faith that such action involves acts or Omission by or under the supervision of the Executive or that termination of the Executive could materially advance the Employer's compliance with the purpose of the action or would materially assist the Employer in avoiding or reducing the restrictions or adverse effects to the Employer related to the regulatory action.

1.5.2 With respect to termination by the Executive, a material diminution in the powers, responsibilities or duties of the Executive hereunder or a material breach of the terms of this Agreement by the Employer, which remains uncured after the expiration of thirty (30) days following the delivery of written notice of such breach to the Employer by the Executive.

1.6 "Change of Control" means any one of the following events:

(a) the acquisition by any person or persons acting in concert of the then outstanding voting securities of the Employer, if, after the transaction, the acquiring person (or persons) owns, controls or holds with power to vote twenty-five percent *(25%)* or more of any class of voting securities of the Employer;

(b) within any twelve-month period (beginning on or after the Effective Date) the persons who were directors of the Employer immediately before the beginning of such twelve-month period (the "Incumbent Directors") shall cease to constitute at least a majority of such board of directors; provided that any director who was not a director as of the beginning of such twelve-month period shall be deemed to be an Incumbent Director if that director were elected to such board of directors by, or on the recommendation of or with the approval of, at least two-thirds (2/3) of the directors who then qualified as Incumbent Directors; and provided further that no director whose initial assumption of office is in connection with an actual or threatened election contest relating to the election of directors shall be deemed to be an Incumbent Director;

(c) a reorganization, merger, share exchange combination, or consolidation, with respect to which persons who were the stockholders of the Employer, as the case may be, immediately prior to such reorganization, merger, share exchange combination, or consolidation do not, immediately thereafter, own more than fifty percent (50%) of the combined voting power entitled to vote in the election of directors of the reorganized, merged, combined or consolidated company's then outstanding voting securities; or

(d) the sale, transfer or assignment of all or substantially all of the assets of the Employer and its subsidiaries to any third party.

1.7 "Confidential Information" means data and information relating to the business of the Employer (which does not rise to the status of a Trade Secret) which is or has been disclosed to the Executive or of which the Executive became aware as a consequence of or through the Executive's relationship to the Employer and which has value to the Employer and is not generally known to its competitors. Confidential Information shall not include any data or information that has been voluntarily disclosed to the public by time Employer (except where such public disclosure has been made by the Executive without authorization) or that has been independently developed and disclosed by others, or that otherwise enters the public domain through lawful means.

1.8 "__Disability__" shall mean the inability of the Executive to perform each of his material duties under this Agreement for the duration of the short-term disability period under the Employer's policy then in effect as certified by a physician chosen by the Employer and reasonably acceptable to the Executive.

1.9 "Effective Date" shall mean the date first set forth above.

1.10 "Employer Information" means Confidential Information and Trade Secrets.

1.11 "Initial Term" shall mean that period of time commencing on the Effective Date and running until the earlier of the close of business on the last business day immediately preceding the fifth (5th) anniversary of the Effective Date or any earlier termination of employment of the Executive under this Agreement as provided for in Section 3. **1.12 "Opening Date"** shall mean the date the Employer opens for business.

1.13 "Term" shall mean the Initial Term and all subsequent renewal periods.

1.14 "**Trade Secrets**" means Employer information including, but not limited to, technical or non-technical data, formulas, patterns, compilations, programs, devices, methods, techniques, drawings, processes, financial data, financial plans, product plans or lists of actual or potential customers or suppliers which:

(a) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

2. Duties.

2.1 Position. The Executive is employed as President and Chief Executive Officer of the Employer and, subject to the direction of the Board of Directors of the Employer or its designee(s), shall perform and discharge well and faithfully the duties which may be assigned to him from time to time by the Employer in connection with the conduct of its business. The duties and responsibilities of the Executive are set forth in Exhibit A attached hereto.

2.2 Full-Time Status. In addition to the duties and responsibilities specifically assigned to the Executive pursuant to Section 2.1 hereof, the Executive shall:

(a) devote substantially all of his time, energy and skill during regular business hours to the performance of the duties of his employment (reasonable vacations and reasonable absences due to illness excepted) and faithfully and industriously perform such duties;

(b) diligently follow and implement all reasonable and lawful management policies and decisions communicated to him by the Board of Directors of the Employer; and

(c) timely prepare and forward to the Board of Directors of the Employer all reports and accountings as may be requested of the Executive.

2.3 Permitted Activities. The Executive shall devote his entire business time, attention and energies to the Business of the Employer and shall not during the Term be engaged in any other business or professional activity, whether or not such activity is pursued for gain, profit or other pecuniary advantage, but this shall not be construed as preventing the Executive from:

(a) investing his personal assets in businesses which (subject to clause (b) below) are not in competition with the Business of the Employer and which will not

require any services on the part of the Executive in their operation or affairs and in which his participation is solely that of an investor;

(b) purchasing securities in any corporation, the securities of which are regularly traded provided that such purchase shall not result in his collectively owning beneficially at any time five percent (5%) or more of the equity securities of any business in competition with the Business of the Employer; and

(c) participating in civic and professional affairs and organizations and conferences, preparing or publishing papers or books or teaching so long as the Board of Directors of the Employer approves in writing of such activities prior to the Executive's engaging in them.

2.4 No Conflicting Obligations. The Executive represents that he is not and will not become a party to any noncompetition or nonsolicitation agreement or any other agreement which would prohibit him from entering into this Agreement or providing the services for the Employer contemplated by this Agreement on or after the Effective Date. In the event the Executive is subject to any such agreement, this Agreement shall be rendered null and void and the Employer shall have no obligations to the Executive under this Agreement.

3. Term and Termination.

3.1 Term. This Agreement shall remain in effect for the Term. While this Agreement remains in effect, at the end of the Initial Term and at the end of any twelve-month extension thereof, this Agreement shall automatically be extended for a successive twelve-month period unless any party gives written notice to the other of its or his intent not to extend this Agreement with such written notice to be given not less than ninety (90) days prior to the end of the Initial Term or such twelve-month period, In the event such notice of non-extension is properly given, this Agreement shall terminate at the end of the remaining Term then in effect.

3.2 Termination. During the Term, the employment of the Executive under this Agreement may be terminated only as follows:

3.2.1 By the Employer:

(a) In the event that the Employer fails to receive its regulatory charter, or the Employer fails to raise the necessary capital required to open the Employer, or should the Employer's Board of Directors decide to forgo future efforts to open the Employer, in which event the Employer shall be required to continue to meet its obligation to the Executive under Section 4.1 for the shortest of the following periods: (i) twenty-four (24) months following the effective date of termination; (ii) the remaining Term; or (iii) until the Executive obtains substantially comparable employment or self-employment;

(b) For Cause, upon written notice to the Executive pursuant to Section 1.5.1 hereof, where the notice has been approved by a resolution passed by two-thirds (2/3) of the Board of Directors of the Employer then in office, in which event the Employer shall have no further obligation to the Executive except for payment of any Base Salary earned and unpaid under Section 4.1 on the effective date of termination and reimbursement under Section 4.10 of expenses incurred as of the effective date of termination;

(c) Without Cause at any time, provided that the Employer shall give the Executive ninety (90) days' prior written notice of its intent to terminate, in which event the Employer shall be required to continue to meet its obligation to the Executive under Section 4.1 for the shortest of the following periods: (i) twenty-four (24) months following the effective date of termination; (ii) the remaining Term; or (iii) until the Executive obtains substantially comparable employment or self-employment;

(d) Upon the Disability of Executive at any time, provided that the Employer shall give the Executive sixty (60) days prior written notice of its intent to terminate, in which event, the Employer shall be required to continue to meet its obligation to the Executive under Section 4.1 for six (6) months following the termination or until the Executive begins receiving payments under the Employer's long-term disability policy, whichever occurs first; or

(e) In the event that the primary regulator for the Employer raises an objection to the Executive's service as President and/or Chief Executive Officer of the Employer pursuant to which the regulator requires the Executive's removal from his position as President and/or Chief Executive Officer as a condition to the Employer's receipt of its regulatory charter, in which event the Employer shall have no further obligation to the Executive except for payment of any Base Salary earned and unpaid under Section 4.1 on the effective date of termination and reimbursement under Section 4.10 of expenses incurred as of the effective date of termination.

3.2.2 By the Executive:

(a) For Cause, upon written notice to the Employer pursuant to Section 1.5.2 hereof in which event the Employer shall be required to continue to meet its obligation to the Executive under Section 4.1 for the ~shortest of the following periods: (i) twenty-four (24) months following the effective date of termination; (ii) the remaining Term; or (iii) until the Executive obtain~ substantially comparable employment or self-employment; or

(b) Without Cause or upon the Disability of the Executive, provided that the Executive shall give the Employer sixty (60) days' prior written notice of his intent to terminate, in which event the Employer shall have no further obligation to the Executive except for payment of any Base Salary earned and unpaid under Section 4.1 on the effective date of termination and reimbursement under Section 4.10 of expenses incurred as of the effective date of termination.

3.2.3 At any time upon mutual, written agreement of the parties, in which event the Employer shall have no further obligation to the Executive except for payment of any Base Salary earned and unpaid under Section 4.1 on the effective date of termination and reimbursement under Section 4.10 of expenses incurred as of the effective date of termination.

3.2.4 Notwithstanding anything in this Agreement to the contrary, the Term shall end automatically upon the Executive's death, in which event the Employer shall have no further obligation to the Executive's estate except for payment of any Base Salary earned and unpaid under Section 4.1 on the effective date of termination and reimbursement under Section 4.10 of expenses incurred as of the effective date of termination.

3.3 Chance of Control. If, within six (6) months following a Change of Control, the Executive terminates his employment with the Employer under this Agreement for Cause or the Employer terminates the Executive's employment without Cause, the Executive, or in the event of his subsequent death, his designated beneficiaries or his estate, as the case may be, shall receive, as. liquidated damages, in lieu of all other claims, a lump sum severance payment equal to the lesser of (a) twelve (12) times the Executive's then current monthly Base Salary or (b) the total Base Salary that would be payable to the Executive over the remaining Term, which amount shall be paid in full on the last day of the month following the date of termination. In no event shall the payment(s) described in this Section 3.3 exceed the amount permitted by Section 280G of the Internal Revenue Code, as amended (the "Code"). Therefore, if the aggregate present value (determined as of the date of the Change of Control in accordance with the provisions of Section 280G of the Code) of both the severance payment and all other payments to the Executive in the nature of compensation which are contingent on a change in ownership or effective control of the Employer or in the ownership of a substantial portion of the assets of the Employer (the "Aggregate Severance") would result in a "parachute payment," as defined under Section 280G of the Code, then the Aggregate Severance shall not be greater than an amount equal to 2.99 multiplied by the Executive's "base amount" for the "base period," as those terms are defined under Section 280G of the Code. In the event the Aggregate Severance is required to be reduced pursuant to this Section 3.3, the Executive shall be entitled to determine which portions of the Aggregate Severance are to be reduced so that the Aggregate Severance satisfies the limit set forth in the preceding sentence. Notwithstanding any provision in this Agreement, if the Executive may exercise his right to terminate employment under this Section 3.3 or under Section 3.2.2(a), the Executive may choose which provision shall be applicable.

3.4 **Effect of Termination**. Upon termination of the~ Executive's employment hereunder for any reason, the Employer shall have no further obligation to the Executive or the Executive's estate with respect to this Agreement, except for the payment of any Base Salary earned and unpaid under Section 4.1 on the effective date of termination and reimbursement under Section 4.10 of expenses incurred as of the effective date of termination of employment and any payments set forth in Sections 3.2.1(a), (c) or (d); Section 3.2.2(a); or Section 3.3, as applicable.

4. **Compensation and Benefits**. The Executive shall receive the following salary and benefits during the Term, except as otherwise provided below:

4.1 **Base Salary**. Beginning on the Effective Date, the Executive shall be compensated at a base rate of Eight Thousand Three Hundred and Thirty-Three Dollars ($8,333) per month (the

"Base Salary"). Beginning as of the Opening Date, the Base Salary shall be equal to Nine Thousand One Hundred and Sixty-Six Dollars and Sixty-Seven Cents ($9,166.67) per month. Following the Opening Date, the Executive's Base Salary shall be reviewed by the Board of Directors of the Employer, at least annually, and the Executive shall be entitled to receive an annual increase in such amount, if any, as may be determined by the Board of Directors of the Employer based on its evaluation of the Executive's performance.

4.2 Signing Bonus. No later than thirty (30) days alter the Effective Date, the Employer shall pay the Executive a signing bonus in the form of a one-time payment equal to Fifteen Thousand Dollars ($15,000.00).

4.3 Stock Options. As soon as practicable after the Opening Date, the Employer shall grant the Executive a stock option to purchase up to 37,500 shares of the Employer's common stock. The exercise price shall be equal to the fair market value of the Employer's common stock as of the date of the option grant, except and only to the extent the Employer's primary regulator may require otherwise. The stock option shall have a maximum term often (10) years. The date or dates on which the stock option shall become exercisable, the event or events when the stock option may terminate prior to its maximum term and all other terms and conditions of the stock option shall be determined by the Board of Directors of the Employer (or subcommittee thereof) at the time of grant and shall be reflected by the terms of a separate written agreement.

4.4 Health and Dental Insurance. The Employer shall reimburse the Executive for the cost of the COBRA continuation coverage premiums that become due and payable by the Executive for the coverage of himself and his eligible dependents under his former employer's group health plan for the period beginning as soon as the Effective Date and continuing until the earlier of (a) the date group health, dental and vision coverages become available under a group health plan adopted by the Employer; or (b) the Opening Date. No later than the Opening Date, the Employer shall adopt a group health plan covering full-time employees, including the Executive, offering health, dental and vision coverages. The Employer shall reimburse the Executive for the cost of the employee-portion of premium payments paid by the Executive for those coverages for which the Executive and the members of his immediate family are eligible pursuant to the terms and conditions of such group health plan.

4.5 Life Insurance. During the Term, the Employer shall provide the Executive with term life insurance coverage providing a death benefit of not less than, Five Hundred Thousand Dollars ($500,000.00), payable to such beneficiary or beneficiaries as the Executive may designate. If the term life insurance provided for under this Section cannot be obtained with a standard or better risk classification with respect to the Executive, the Employer shall not be obligated to provide such insurance coverage.

4.6 **Supplemental Cash Compensation.** For the period beginning on the Effective Date and ending on the Opening Date only, the Employer shall provide the Executive with supplemental cash compensation equal to $1,000 per month, to be paid in pro rata portions at the same times as installments of the Executive's Base Salary are paid.

4.7 **Retirement Plan.** As soon as practicable following the Opening Date, the Employer shall adopt a qualified retirement plan for the benefit of *its* employees, including the Executive.

4.8 Disability.

(a) For the period beginning on the Effective Date and ending on the Opening Date, the Employer shall reimburse the Executive for the cost of premium payments paid by the Executive for short-term and long-term disability insurance coverage, which reimbursement shall not exceed One Thousand Dollars ($1,000) per month in the aggregate.

(b) Effective as of the Opening Date, the Employer shall reimburse the Executive for the cost of premium payments paid by the Executive for short-term and long-term disability insurance coverage, provided that the Employer shall only reimburse the Executive for premium payments for long-term disability coverage which provides benefits equal to seventy-eight percent (78%)

of the Executive's Base Salary at the time of Disability (or, if less, the highest amount of coverage that the insurer selected by the Employer will underwrite at its standard rates).

4.9 Vacation, Personal Days, and Sick Leave. On a non-cumulative basis, the Executive shall be entitled to three (3) weeks of vacation, five (5) personal days, and seven (7) sick days in each successive twelve-month period during the Term, during which his compensation shall be paid in full.

4.10 Business Expenses; Memberships. The Employer specifically agrees to reimburse the Executive for

(a) reasonable and necessary business (including travel) expenses incurred by him in the performance of his duties hereunder, as approved~ by the Board of Directors of the Employer; and

(b) effective as of the Opening Date, the reasonable dues and business related expenditures, including initiation fees associated with membership in a single country club, a single civic association, or a single trade association, to be selected by the Executive and approved by the Board of Directors of the Employer. Furthermore, the Executive is permitted to participate in professional associations which are commensurate with his position, all as approved by the Board of Directors of the Employer; provided, however, that the Executive shall, as a condition of reimbursement, submit verification of the nature and amount of such expenses in accordance with reimbursement policies from time to time adopted by the Employer and in sufficient detail to comply with rules and regulations promulgated by the Internal Revenue Service.

4.11 **Automobile**. Beginning with the Effective Date, the Employer agrees to provide the Executive with an automobile allowance equal to Six Hundred Dollars ($600) per month.

4.12 **Withholding**. The Employer may deduct from each payment of compensation hereunder all amounts required to be deducted and withheld in accordance with applicable federal and state income tax, FICA and other withholding requirements.

4.13 **Benefits**. In addition to the benefits specifically described in this Agreement, the Executive shall be entitled to such benefits as may be available from time to time to executives of the Employer similarly situated to the Executive. All such benefits shall be awarded and administered in accordance with the Employer's standard policies and practices. Such benefits may include, by way of example only, profit-sharing plans, retirement or investment funds, dental, health, life and disability insurance benefits and such other benefits as the Employer deems appropriate.

5. Employer Information.

5.1 Ownership of Employer Information. All Employer Information received or developed by the Executive while employed by the Employer will remain the sole and exclusive property of the Employer.

5.2 Obligations of the Executive. The Executive agrees:

(a) to hold Employer Information in strictest confidence;

(b) not to use, duplicate, reproduce, distribute, disclose or otherwise disseminate Employer Information or any physical embodiments of Employer Information; and

(c) in any event, not to take any action causing or fail to take any action necessary in order to prevent any Employer

Information from losing its character or ceasing to qualify as Confidential Information or a Trade Secret.

In the event that the Executive is required by law to disclose any Employer Information, the Executive will not make such disclosure unless (and then only to the extent that) the Executive has been advised by independent legal counsel that such disclosure is required by law and then only after prior written notice is given to the Employer when the Executive becomes aware that such disclosure has been requested and is required by law. With respect to Confidential Information, this Section 5 shall survive for a period of twelve (12) months following termination of this Agreement for any reason, and shall survive termination of this Agreement for any reason for so long as is permitted by applicable law, with respect to Trade Secrets.

5.8 **Delivery upon Request or Termination**. Upon request by the Employer, and in any event upon termination of his employment with the Employer, the Executive will promptly deliver to the Employer all property belonging to the Employer, including, without limitation, all Employer Information then in his possession or control.

6. Non-Competition. The Executive agrees that during his employment by the Employer hereunder and, in the event of his termination:

- by the Employer for Cause pursuant to Section 3.2.1(b),

- by the Employer without Cause pursuant to Section 3.2.1(c);

- by the Employer pursuant to Section 3.2.1(e);

- by the Executive for Cause pursuant to Section 3.2.2(a);

- by the Executive without Cause pursuant to Section 3.2.2(b), or

- by the Employer or the Executive in connection with a Change of Control pursuant to Section 3.3,

for a period of twelve (12) months thereafter, he will not (except on behalf of or with the prior written consent of the Employer), within the Area, either directly or indirectly, on his own behalf or in the service of or on behalf of others, as an executive employee or in any other capacity which involves duties and responsibilities similar to those undertaken for the Employer (including as an organizer, director or proposed executive officer of a new financial institution), engage in any business which is the same as or essentially the same as the Business of the Employer.

7. Non-Solicitation of Customers. The Executive agrees that during his employment by the Employer hereunder and, in the event of his termination:

- by the Employer for Cause pursuant to Section 3.2.1(b),
- by the Employer without Cause pursuant to Section 3.2.1(c);
- by the Employer pursuant to Section 3.2.1(e);
- by the Executive for Cause pursuant to Section 3.2.2(a);
- by the Executive without Cause pursuant to Section 3.2.2(b), or
- by the Employer or the Executive in connection with a Change of Control pursuant to Section 3.3,

for a period of twelve (12) months thereafter, he will not (except on behalf of or with the prior written consent of the Employer), within the Area, on his own behalf or in the service of or on behalf of others, solicit, divert or appropriate or attempt to solicit, divert or appropriate, any business from any of the Employer's customers, including prospective customers actively sought by the Employer, with whom the Executive has or had material contact during the last two (2) years of his employment, for purposes of providing products or services that are competitive with those provided by the Employer.

8. Non-Solicitation of Employees. The Executive agrees that during his employment by the Employer hereunder and, in the event of his termination:

- by the Employer for Cause pursuant to Section 3.2.1(b),
- by the Employer without Cause pursuant to Section 3.2.1(c);
- by the Employer pursuant to Section 3.2.1(e);

- by the Executive for Cause pursuant to Section 3.2.2(a);

- by the Executive without Cause pursuant to Section 3.2.2(b), or

- by the Employer or the Executive in connection with a Change of Control pursuant to Section 3.3,

for a period of twelve (12) months thereafter, he will not, within the Area, on his own behalf or in the service of or on behalf of others, solicit, recruit or hire away or attempt to solicit, recruit or hire away, any employee of the Employer or its Affiliates to another person or entity providing products or services that are competitive with the Business of the Employer, whether or not:

- such employee is a full-time employee or a temporary employee of the Employer or its Affiliates,
- such employment is pursuant to written agreement, and

- such employment is for a determined period or is at will.

9. **Remedies**. The Executive agrees that the covenants contained in Sections 5, 6, 7, and 8 of this Agreement are of the essence of this Agreement; that each of the covenants is reasonable and necessary to protect the business, interests and properties of the Employer, and that irreparable loss and damage will be suffered by the Employer should he breach any of the covenants. Therefore, the Executive agrees and consents that, in addition to all the remedies provided by law or in equity, the Employer shall be entitled to a temporary restraining order and temporary and permanent injunctions to prevent a breach or contemplated breach of any of the covenants. The Employer and the Executive agree that all remedies available to the Employer or the Executive, as applicable, shall be cumulative.

10. Severability. The parties agree that each of the provisions included in this Agreement is separate, distinct and severable from the other provisions of this Agreement and that the invalidity or unenforceability of any Agreement provision shall not affect the validity or enforceability of any other provision of this Agreement. Further, if any provision of this Agreement is ruled invalid or unenforceable by a court of competent jurisdiction because of a conflict between the provision and any applicable law or public policy, the provision shall be redrawn to make the provision consistent with and valid and enforceable under the law or public policy.

11. No Set-Off by the Executive. The existence of any claim, demand, action or cause of action by the Executive against the Employer, or any Affiliate of the Employer, whether predicated upon this Agreement or

otherwise, shall not constitute a defense to the enforcement by the Employer of any of its rights hereunder.

12. Notice. All notices and other communications required or permitted under this Agreement shall be in writing and shall be delivered by hand or, if mailed, shall be sent via the United States Postal Service, certified mail, return receipt requested, or by overnight courier. All notices hereunder may be delivered by hand or overnight courier, in which event the notice shall be deemed effective when delivered. All notices and other communications under this Agreement shall be given to the parties hereto at the following addresses:

(i) If to the Employer, to it at:

Local Bank of Middle Georgia
Attn: Chairman
306 North Davis Drive

Warner Robins, Georgia 31093

(ii) If to the Executive, to him at:
1875 Sandgate Circle (or) 305 Poplar Street
College Park, GA 30349 Vienna, GA. 31092

Any party hereto may change his or its address by advising the others, in writing, of such change of address.

13. Assignment. Neither party hereto may assign or delegate this Agreement or any of its rights and obligations hereunder without the written consent of the other party to this Agreement.

14. Waiver. A waiver by one party to this Agreement of any breach of this Agreement by the other party to this Agreement shall not be effective unless in writing, and no waiver shall operate or be construed as a waiver of the same or another breach on a subsequent occasion.

15. Counterparts. This Agreement may

be signed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument.

16. Attorneys' Fees. In the event that the parties have complied with this Agreement with respect to arbitration of disputes and litigation ensues between the parties concerning the enforcement of an arbitration award, the party prevailing in such litigation shall be entitled to receive from the other party all reasonable costs and expenses, including without limitation attorneys' fees, incurred by the prevailing party in connection with such litigation, and the other party shall pay such costs and expenses to the prevailing party promptly upon demand by the prevailing party.

17. Applicable Law. This Agreement shall be construed and enforced under and

in accordance with the laws of the State of Georgia.

18. **Interpretation**. Words importing any gender include all genders. Words importing the singular form shall include the plural and vice versa. The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms refer to this Agreement. Any captions, titles or headings preceding the text of any article, section or, subsection herein are solely for convenience of reference and shall not constitute part of this Agreement or affect its meaning, construction or effect

19. **Entire Agreement**. This Agreement embodies the entire and final agreement of the parties on the subject matter stated in this Agreement. No amendment or modification of this Agreement shall be valid or binding upon the Employer or the

Executive unless made in writing and signed by both parties. All prior understandings and agreements relating to the subject matter of this Agreement are hereby expressly terminated.

20. **Rights of Third Parties**. Nothing herein expressed is intended to or shall be construed to confer upon or give to any person, firm or other entity, other than the parties hereto and their permitted assigns any rights or remedies under or by reason of this Agreement.

21. **Survival**. The obligations of the parties pursuant to Sections 3 and 4 shall survive the termination of the employment of the Executive until such obligations are satisfied. If and to the extent applicable, the obligation of the Guarantors pursuant to Section 22 shall survive the termination of the employment of the Executive until such obligation is satisfied. The obligations of the

Executive pursuant to Sections 5, 6, 7, 8, and 9 shall survive the termination of the employment of the Executive hereunder for the period designated under each of those respective Sections.

22. Guarantee. The Guarantors unconditionally guarantee the full performance of the Employer should its contingent severance obligation become payable pursuant to Section 3.2.1(a). The obligation of the Guarantors under this Agreement shall be limited to the payment of that portion of the severance obligation as may arise under Section 3.2.1(a) that is not satisfied by the Employer. The Guarantors shall be jointly and severally liable for said obligation.

[Remainder of Page Intentionally Left Blank]

Exhibit A

Duties and Responsibilities of the Executive

The duties and responsibilities of the Executive shall include, in addition to any other duties and responsibilities assigned the Executive by the Board of Directors of the Employer or their respective designees, the following:

1. Use best efforts in working with the consultants and security firms on the Employer's business plan, prospectus, offering circular, and marketing strategy.

2. Actively participate in the marketing and sale of the proposed financial institution's stock, products and services.

3. Attend, Board of Directors' meetings.

4. Make recommendations to the Board of

Directors of the Employer on services, design of products and programs.

5. Prepare presentations as required, and brief the Board of Directors of the Employer.

6. Establish internal procedures for hiring, terminations, promotions, transfers, performance appraisals, training and development of bank officers, and secretarial staff.

7. Foster a corporate culture that promotes ethical practices, encourages individual integrity, fulfill social responsibility, and is conducive to attracting, retaining and motivating a diverse group of top-quality employees at all levels.

8. Work with the Board of Directors of the Employer to develop a long-term strategy for the Employer that creates

shareholder value.

9. Follow the business plan of the Employer, as adopted by the Board of Directors of the Employer and approved by banking regulators, and develop and recommend to the Board of Directors of the Employer budgets that support the business plan.

10. Manage the day-to-day business affairs of the Employer appropriately.

11. Use best efforts to achieve the Employer's financial and operating goals and objectives.

12. Use best efforts to improve the quality and value of the products and services provided by the Employer.

13. Use best efforts to ensure that the

Employer maintains a satisfactory competitive position within its industry.

14. Develop an effective management team and an active plan for its development and succession, and make recommendations to the Board of Directors of the Employer regarding hiring, firing and compensation.

15. Implement major corporate policies.

CERTIFICATE OF SERVICE

This is to certify that a copy of the above and foregoing Motion to intervene and attached complaint, have been forwarded by depositing the same, postage pre—paid, in the United States mail, pursuant to Official Code of Georgia Annotated, section 9—11-5 (b), et seq., addressed as follows:

Thomas C. James, III, Esquire
James, Bates, Pope & Spivey
P.O. Box 4283
Macon, Georgia 31208—4280

Kim T. Phipps, Esquire
Troutman Sanders
Bank of America Plaza
600 Peachtree Street, N.E., Suite 5200
Atlanta, Georgia 30308-2216

This ‘24th day of March, 2006.

S. Ralph Martin, Jr. /S/
S. RALPH MARTIN, JR.

APPENDIX F

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1. Appendix F: Plaintiffs' EXHIBIT P- Local Bank of Middle Georgia I.O. bank statements, checks (Carver State Bank) from February 9, 2005 thru September 30, 2005; Civil Case –*Carl G. Fambro, Evaristus Oshiokpekhai, Isaac Eferighe, Paul Harmon, Winston Lawson, Roy West, Tyrone Evans vs. Local MG LLC; Carol A. Ervin; Bobby J. Brown, Sr.; and Sherman Outler;* Civil Action No. 2005-V-82124-N, date filed December 20, 2006.

Carver
State
Bank

701 Martin Luther King Jr. Blvd.
Post Office Box 2769
Savannah, GA 31402

LOCAL BANK OF MIDDLE GA
IN ORGINIZATION
PO BOX 6377
WARNER ROBINS GA 31095

FDIC

SMALL BUS CHECKING
ACCOUNT: 135046

02/09/05 THRU 03/31/05
DOCUMENT COUNT: 1
PAGE 1

NOW YOU CAN ACCESS YOUR DEPOSIT AND LOAN ACCOUNTS INFORMATION BY CALLING TELEBANC 1-866-710-2250 -- OUR NEW 24-HOUR TELEPHONE BANKING SYSTEM: THE FIRST TIME YOU CALL, USE THE LAST 4 DIGITS OF YOUR TAX ID OR SOCIAL SECURITY NUMBER FOR YOUR PERSONAL IDENTIFICATION NUMBER.
IT'S HERE!!
CONTACT CUSTOMER SERVICE FOR YOUR VISA DEBIT CARD.
233-9971 EXT. 21 OR EXT. 13

SMALL BUS CHECKING ACCOUNT 135046

		LAST STATEMENT 02/08/05	.00
MINIMUM BALANCE	18,167.00	2 CREDITS	33,167.00
AVG AVAILABLE BALANCE	21,500.33	2 DEBITS	15,012.00
AVERAGE BALANCE	21,500.33	THIS STATEMENT 03/31/05	18,155.00

- - - - - - - - - - - DEPOSITS - - - - - - - - - - -

REF #	DATE	AMOUNT	REF #	DATE	AMOUNT	REF #	DATE	AMOUNT
	03/14	.00		03/14	33,167.00			

- - - - - - - - - - - CHECKS - - - - - - - - - - -

CHECK #	DATE	AMOUNT	CHECK #	DATE	AMOUNT	CHECK #	DATE	AMOUNT
	03/18	15,000.00						

- - - - - - - - - - OTHER DEBITS - - - - - - - - - -

DESCRIPTION	DATE	AMOUNT
SERVICE CHARGE	03/31	12.00

- - - ITEMIZATION OF SERVICE CHARGE PAID THIS PERIOD - - -

TOTAL CHARGE FOR MAINTENANCE FEE: 12.00

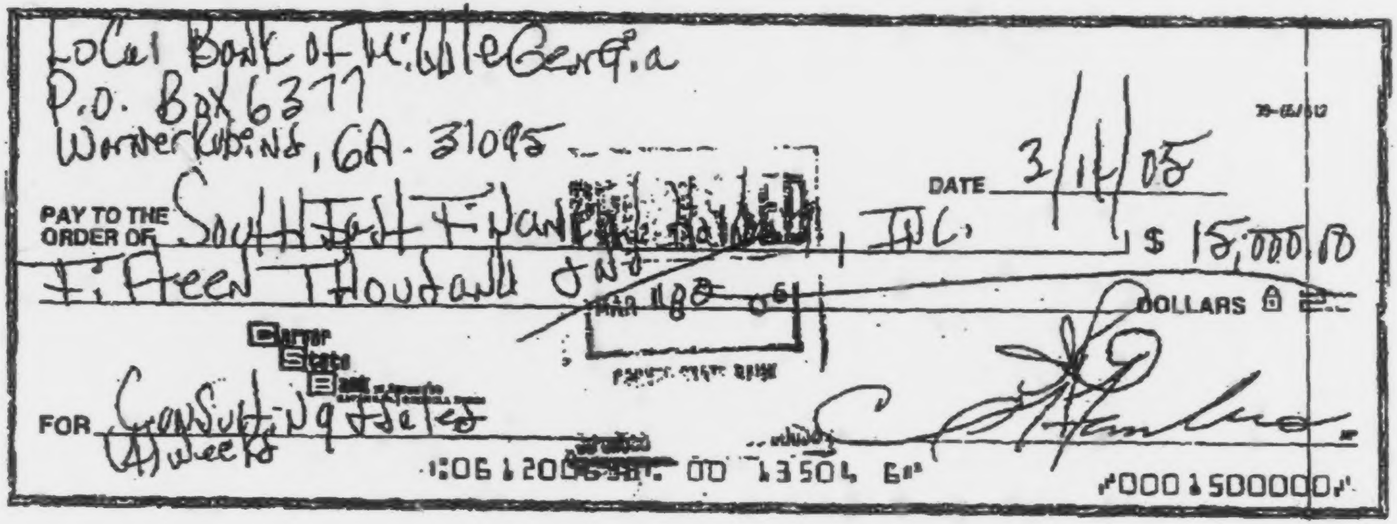
- - - - - - - - DAILY BALANCE - - - - - - - -

DATE	BALANCE	DATE	BALANCE	DATE	BALANCE
03/14	33,167.00	03/18	18,167.00	03/31	18,155.00

PLAINTIFF'S EXHIBIT P

①

Petitioners
Appendix F



Local Bank of MiddleGeorgia
P.O. Box 6377
WarnerRobins, GA. 31095

30-65/612

DATE 3/14/05

PAY TO THE ORDER OF SoutHEast Finan[illegible], INC. $ 15,000.00

Fifteen Thousand and DOLLARS

MAR 18 05

Carver State Bank

FOR Consulting Fees (4) weeks

⑆061200[illegible]⑆ 00 13504 6⑈ ⑈0001500000⑈

②

Carver
State
Bank

701 Martin Luther King Jr. Blvd.
Post Office Box 2769
Savannah, GA 31402

LOCAL BANK OF MIDDLE GA
 IN ORGINIZATION
PO BOX 6377
WARNER ROBINS GA 31095

FDIC

SMALL BUS CHECKING
ACCOUNT: 135046

04/01/05 THRU 04/29/05
DOCUMENT COUNT: 2

PAGE 1

NOW YOU CAN ACCESS YOUR DEPOSIT AND LOAN ACCOUNTS INFORMATION BY CALLING TELEBANC 1-866-710-2250 -- OUR NEW 24-HOUR TELEPHONE BANKING SYSTEM. THE FIRST TIME YOU CALL, USE THE LAST 4 DIGITS OF YOUR TAX ID OR SOCIAL SECURITY NUMBER FOR YOUR PERSONAL IDENTIFICATION NUMBER.

IT'S HERE!!

CONTACT CUSTOMER SERVICE FOR YOUR VISA DEBIT CARD.
233-9971 EXT. 11 OR EXT. 13

SMALL BUS CHECKING ACCOUNT 135046

		LAST STATEMENT 03/31/05	18,155.00
MINIMUM BALANCE	10,250.87	CREDITS	.00
AVG AVAILABLE BALANCE	14,108.46	3 DEBITS	7,916.13
AVERAGE BALANCE	14,108.46	THIS STATEMENT 04/29/05	10,238.87

- - - - - - - - - - CHECKS - - - - - - - - - -

CHECK #	DATE	AMOUNT	CHECK #	DATE	AMOUNT	CHECK #	DATE	AMOUNT
	*04/12	3,750.00		04/18	4,154.13			

(*) INDICATES A GAP IN CHECK NUMBER SEQUENCE

- - - - - - - - - - OTHER DEBITS - - - - - - - - - -

DESCRIPTION	DATE	AMOUNT
SERVICE CHARGE	04/29	12.00

- - - ITEMIZATION OF SERVICE CHARGE PAID THIS PERIOD - - -

TOTAL CHARGE FOR MAINTENANCE FEE: 12.00

- - - - - - - - - DAILY BALANCE - - - - - - - - -

DATE	BALANCE	DATE	BALANCE	DATE	BALANCE
04/12	14,405.00	04/18	10,250.87	04/29	10,238.87

③

Carver State Bank
of Savannah

701 Martin Luther King Jr. Blvd.
Post Office Box 2769
Savannah, GA 31402

LOCAL BANK OF MIDDLE GA
IN ORGINIZATION
PO BOX 6377
WARRNER ROBINS GA 31095

FDIC

SMALL BUS CHECKING
ACCOUNT: 135046

04/30/05 THRU 05/31/05
DOCUMENT COUNT: 0
PAGE 1

NOW YOU CAN ACCESS YOUR DEPOSIT AND LOAN ACCOUNTS INFORMATION BY CALLING TELEBANC 1-866-710-2250 -- OUR NEW 24-HOUR TELEPHONE BANKING SYSTEM. THE FIRST TIME YOU CALL, USE THE LAST 4 DIGITS OF YOUR TAX ID OR SOCIAL SECURITY NUMBER FOR YOUR PERSONAL IDENTIFICATION NUMBER.

IT'S HERE!!
CONTACT CUSTOMER SERVICE FOR YOUR VISA DEBIT CARD.
233-9971 EXT. 21 OR EXT. 13

SMALL BUS CHECKING ACCOUNT 135046

		LAST STATEMENT 04/29/05	10,238.87
MINIMUM BALANCE	10,238.87	CREDITS	.00
AVG AVAILABLE BALANCE	10,238.87	1 DEBITS	12.00
AVERAGE BALANCE	10,238.87	THIS STATEMENT 05/31/05	10,226.87

- - - - - - - - - OTHER DEBITS - - - - - - - - -

DESCRIPTION	DATE	AMOUNT
SERVICE CHARGE	05/31	12.00

- - - ITEMIZATION OF SERVICE CHARGE PAID THIS PERIOD - - -

TOTAL CHARGE FOR MAINTENANCE FEE: 12.00

- - - - - - - - DAILY BALANCE - - - - - - - -

DATE	BALANCE	DATE	BALANCE	DATE	BALANCE
05/31	10,226.87				

⑤

Carver
State
Bank
of Savannah

701 Martin Luther King jr. Blvd.
Post Office Box 2769
Savannah, GA 31402

LOCAL BANK OF MIDDLE GA
IN ORGINIZATION
PO BOX 6377
WARNER ROBINS GA 31095

FDIC

SMALL BUS CHECKING
ACCOUNT: 135046

06/01/05 THRU 06/30/05
DOCUMENT COUNT: 5
PAGE 1

NOW YOU CAN ACCESS YOUR DEPOSIT AND LOAN ACCOUNTS INFORMATION BY CALLING TELEBANC 1-866-710-2280 -- OUR NEW 24-HOUR TELEPHONE BANKING SYSTEM. THE FIRST TIME YOU CALL, USE THE LAST 4 DIGITS OF YOUR TAX ID OR SOCIAL SECURITY NUMBER FOR YOUR PERSONAL IDENTIFICATION NUMBER.
IT'S HERE!!
CONTACT CUSTOMER SERVICE FOR YOUR VISA DEBIT CARD.
233-9971 EXT. 21 OR EXT. 13

SMALL BUS CHECKING ACCOUNT 135046

		LAST STATEMENT 05/31/05	10,226.87
MINIMUM BALANCE	4,461.01	CREDITS	.00
AVG AVAILABLE BALANCE	7,584.49	6 DEBITS	5,777.86
AVERAGE BALANCE	7,584.49	THIS STATEMENT 06/30/05	4,449.01

- - - - - - - - - - - CHECKS - - - - - - - - - - -

CHECK #	DATE	AMOUNT	CHECK #	DATE	AMOUNT	CHECK #	DATE	AMOUNT
	*06/17	43.21		*06/17	3,724.05		06/20	278.74
	*06/17	1,515.00		*06/20	204.86			

(*) INDICATES A GAP IN CHECK NUMBER SEQUENCE

- - - - - - - - - - OTHER DEBITS - - - - - - - - - -

DESCRIPTION	DATE	AMOUNT
SERVICE CHARGE	06/30	12.00

- - - ITEMIZATION OF SERVICE CHARGE PAID THIS PERIOD - - -

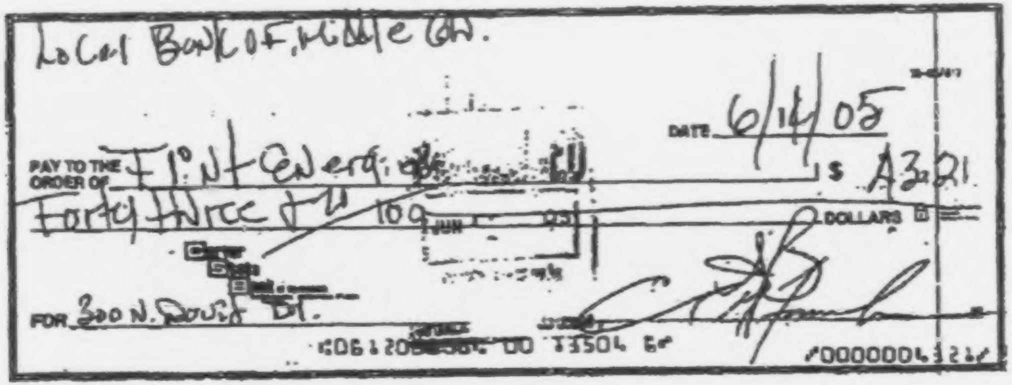
TOTAL CHARGE FOR MAINTENANCE FEE: 12.00

- - - - - - - - - DAILY BALANCE - - - - - - - - -

DATE	BALANCE	DATE	BALANCE	DATE	BALANCE
06/17	4,944.61	06/20	4,461.01	06/30	4,449.01

4449
37[illegible].50
1100.00

⑥


LoCal Bank of Middle GA.

DATE 6/14/05

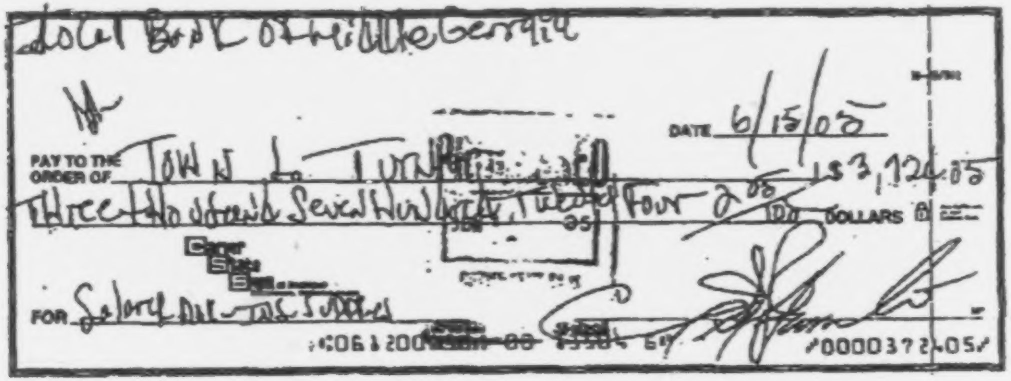
PAY TO THE ORDER OF Flint Energies $ 43.21

Forty three & 21/100 DOLLARS

Carver State Bank

FOR 300 N. Davis Dr.

⑆06112[redacted] 00 33504 6⑈ ⑈0000004321⑈


Local Bank of Middle Georgia

DATE 6/15/05

PAY TO THE ORDER OF John L. Turner $3,724.05

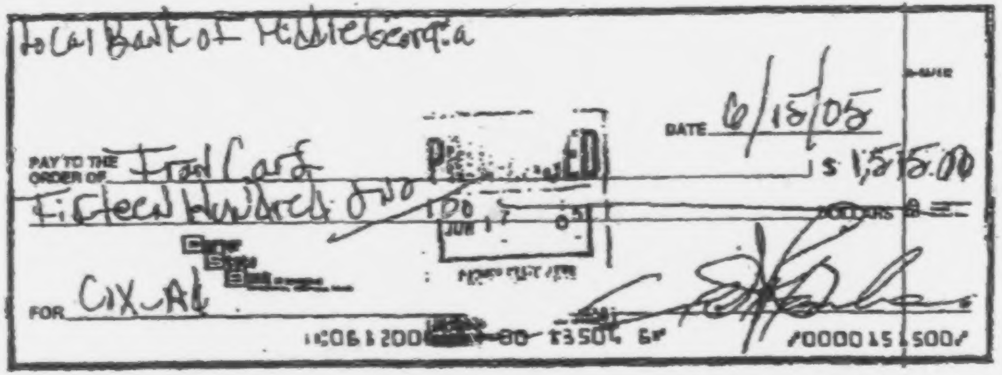
Three Thousand Seven Hundred Twenty Four 05/100 DOLLARS

Carver State Bank

FOR Salary Due - [illegible]

⑆0612200[redacted] 00 33504 6⑈ ⑈0000372405⑈

Ⓕ



LoCal Bank of Middle Georgia

DATE 6/15/05

PAY TO THE ORDER OF Fred Cart $ 1,515.00

Fifteen Hundred 0/00 DOLLARS

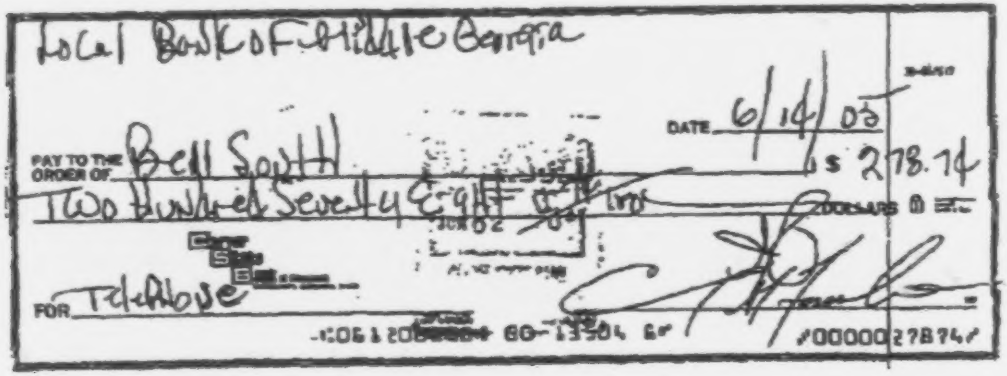
P[illegible]ED

JUN 17 05

FOR CIX-AL

⑆061200[redacted] 60-13504 6⑈ /0000151500/

⑧



LoCal Bank of Middle Georgia

DATE 6/14/05

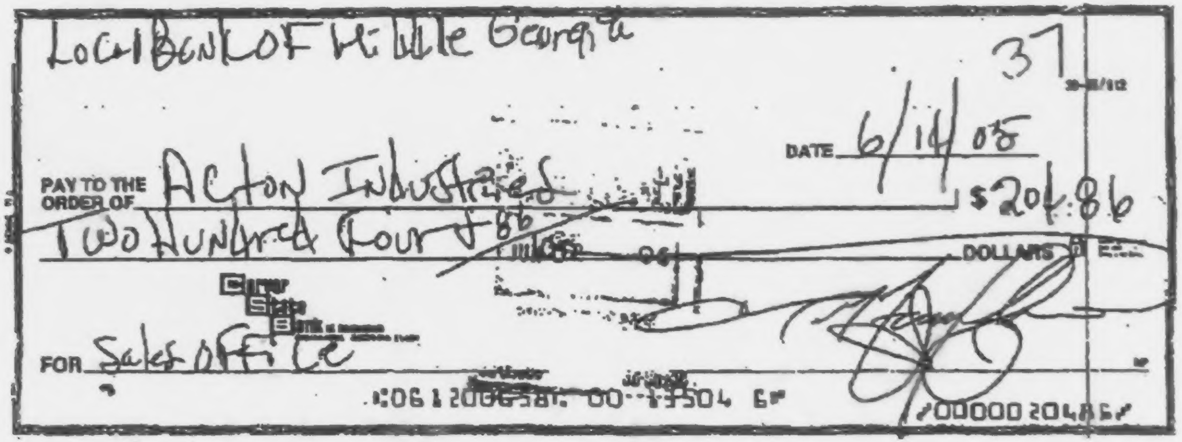
PAY TO THE ORDER OF Bell South $ 278.74

Two Hundred Seventy Eight 74/100 DOLLARS

JUN 02 05

FOR Telephone

⑆061200[redacted] 60-13504 6⑈ /0000027874/



Local Bank of Middle Georgia

37

DATE 6/14/05

PAY TO THE ORDER OF Acton Industries $204.86

Two Hundred Four & 86/— DOLLARS

Carver State Bank

FOR Sales Office

⑆061200658⑆ 00 11504 6⑈ ⑈0000020486⑈

ⓐ

Carver State Bank
701 Martin Luther King Jr. Blvd.
Post Office Box 2769
Savannah, GA 31402

LOCAL BANK OF MIDDLE GA
IN ORGINIZATION
PO BOX 6377
WARNER ROBINS GA 31095

SMALL BUS CHECKING
ACCOUNT: 135046

07/01/05 THRU 07/29/05
DOCUMENT COUNT: 2
PAGE 1

You can manage your accounts from anywhere with
Internet Banking and and Carver On-Line Bill Pay
Visit our website at www.carverstatebank.com to enroll.
IT'S HERE!!
CONTACT CUSTOMER SERVICE FOR YOUR VISA DEBIT CARD.
233-9971 EXT. 21 OR EXT. 13

SMALL BUS CHECKING ACCOUNT 135046

		LAST STATEMENT 06/30/05	4,449.01
MINIMUM BALANCE	199.01	CREDITS	.00
AVG AVAILABLE BALANCE	1,095.56	3 DEBITS	4,262.00
AVERAGE BALANCE	1,095.56	THIS STATEMENT 07/29/05	187.01

CHECKS

CHECK #	DATE	AMOUNT	CHECK #	DATE	AMOUNT	CHECK #	DATE	AMOUNT
	*07/05	3,650.00		07/20	600.00			

(*) INDICATES A GAP IN CHECK NUMBER SEQUENCE

OTHER DEBITS

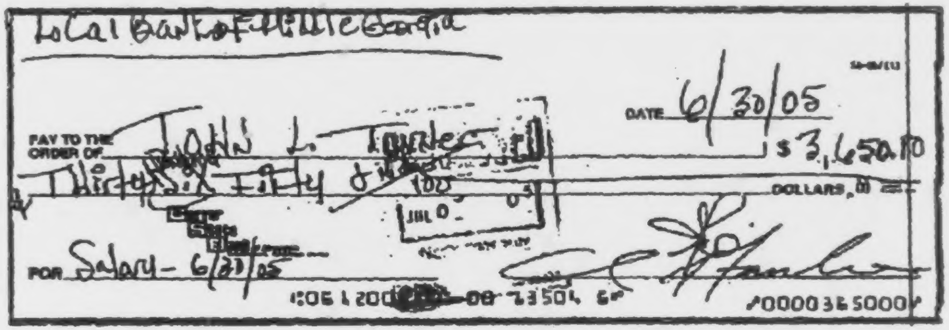
DESCRIPTION	DATE	AMOUNT
SERVICE CHARGE	07/29	12.00

ITEMIZATION OF SERVICE CHARGE PAID THIS PERIOD

TOTAL CHARGE FOR MAINTENANCE FEE: 12.00

DAILY BALANCE

DATE	BALANCE	DATE	BALANCE	DATE	BALANCE
07/05	799.01	07/20	199.01	07/29	187.01



LoCal Bank of Middle Georgia

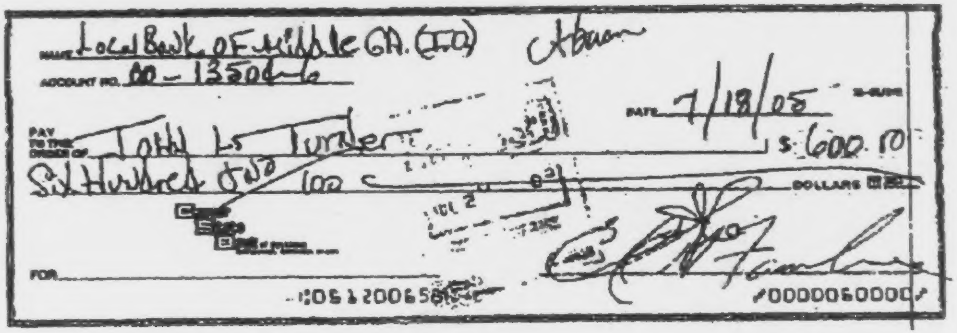
DATE 6/30/05

PAY TO THE ORDER OF John L. Turner $ 3,650.00

Thirty Six Fifty & 00/100 DOLLARS

FOR Salary - 6/30/05

⑆061200[redacted]-08 73504 6⑈ ⑈0000365000⑈



NAME Local Bank of Middle GA. (IOA)

ACCOUNT NO. 00 - 13504-6

DATE 7/18/05

PAY TO THE ORDER OF John L. Turner $ 600.00

Six Hundred & 00/100 DOLLARS

FOR

⑆061200658⑆ ⑈0000060000⑈

11

Carver State Bank

701 Martin Luther King Jr. Blvd.
Post Office Box 2769
Savannah, GA 31402

LOCAL BANK OF MIDDLE GA
IN ORGINIZATION
PO BOX 6377
WARENER ROBINS GA 31095

FDIC

SMALL BUS CHECKING
ACCOUNT: 135046

09/01/05 THRU 09/30/05
DOCUMENT COUNT: 0
PAGE 1

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Internet Banking and and Carver On-Line Bill Pay
Visit our website at www.carverstatebank.com to enroll.
IT'S HERE!!
CONTACT CUSTOMER SERVICE FOR YOUR VISA DEBIT CARD.
233-5971 EXT. 21 OR EXT. 13

SMALL BUS CHECKING ACCOUNT 135046

		LAST STATEMENT 08/31/05	175.01
MINIMUM BALANCE	175.01	CREDITS	.00
AVG AVAILABLE BALANCE	175.01	1 DEBITS	12.00
AVERAGE BALANCE	175.01	THIS STATEMENT 09/30/05	163.01

- - - - - - - - - - OTHER DEBITS - - - - - - - - - -

DESCRIPTION	DATE	AMOUNT
SERVICE CHARGE	09/30	12.00

- - - ITEMIZATION OF SERVICE CHARGE PAID THIS PERIOD - - -

TOTAL CHARGE FOR MAINTENANCE FEE: 12.00

- - - - - - - - - DAILY BALANCE - - - - - - - - -

DATE	BALANCE	DATE	BALANCE	DATE	BALANCE
09/30	163.01				

(12)

APPENDIX G

BANK STATEMENTS

Personal

Plaintiffs' Exhibit U-3-
FRANCARS INC. bank
statements, checks (Bank of
America), from June 1, 2005 thru
January 31, 2006; Civil Case –
*Carl G. Fambro, Evaristus
Oshiokpekhai, Isaac Eferighe,
Paul Harmon, Winston Lawson,
Roy West, Tyrone Evans vs.
Local MG LLC, Carol A. Ervin,
Bobby J. Brown, Sr., Raymond
Corbin, and Sherman Outler,*
Civil Action No. 2005-V-82124-N,
Superior Court of Houston
County, Georgia, date of entry
December 20, 2006.

APPENDIX G-1 thru G-37

Bank of America

Bank of America, N.A.
P.O. Box 25118
Tampa, FL 33622-5118

1.888.852.5000
www.bankofamerica.com

H

Page 1 of 2
Account Number: [redacted]
ID P 0C Enclosures 0 48
Statement Period
06/01/05 through 06/30/05 0072505

00027165 1 AB 0.301 12 93372 001 SCM999 I1
FRANCARS INC
4376 LOG CABIN DR STE A
MACON GA 31204-5684

Our free Online Banking service allows you to check balances, track account activity, pay bills and more
With Online Banking you can also view up to 18 months of this statement online.
Enroll at www.bankofamerica.com/smallbusiness

[illegible]

Account Summary Information

Statement Period	06/01/05 through 06/30/05	Statement Beginning Balance	92.21
Number of Deposits/Credits	0	Amount of Deposits/Credits	0.00
Number of Withdrawals/Debits	1	Amount of Withdrawals/Debits	14.93
		Statement Ending Balance	77.28
Number of Enclosures	0	Average Ledger Balance	92.21
Number of Days in Cycle	30	Service Charge	14.93

Daily Ledger Balances

[illegible]

06/01	92.21	06/30	77.28

-22 00

Account Analysis

Activity Charges

Activity Analyzed	Number	Charge
Maintenance	1	15.00
TOTAL ACTIVITY CHARGES		15.00

Analysis

Average Ledger Balance	92.21
less float	0.00
Average Collected Balance	92.21
less 10% Reserve Requirement	9.22
Average Available Balance	82.99
nings Allowance at 1.15000%	0.07
less Total Activity Charges	15.00
Net Service Charge Applied To Your Account	14.93

PETITIONERS'

APPENDIX G-1

HH

BankofAmerica

Bank of America, N.A.
P.O. Box 25118
Tampa, FL 33622-5118

1.888.852.5000
www.bankofamerica.com

Page 1 of 2
Account Number [redacted]
ID F 0C Enclosures 2
Statement Period
07/01/05 through 07/31/05 00390

00007199 1 AB 0.301 13 30172 002 XXX999 I1
FRANCARS INC
4376 LOG CABIN DR STE A
MACON GA 31204-5604

Our free Online Banking service allows you to check balances, track account activity, pay bills and more. With Online Banking you can also view up to 18 months of this statement online. Enroll at www.bankofamerica.com/smallbusiness.

SimpleAnalysis Business Checking

Account Summary Information

Statement Period	07/01/05 through 07/31/05	Statement Beginning Balance	77.28
Number of Deposits/Credits	2	Amount of Deposits/Credits	7,150.00
Number of Withdrawals/Debits	2	Amount of Withdrawals/Debits	2,922.78
		Statement Ending Balance	4,304.50
Number of Enclosures	2	Average Ledger Balance	1,981.98
Number of Days in Cycle	31	Service Charge	15.78

Deposits and Credits

[illegible]	[illegible]	[illegible]	Bank Reference
07/13	2,150.00	Counter Credit	813000700930630
07/26	5,000.00	Counter Credit	813000800323829

Withdrawals and Debits

Checks

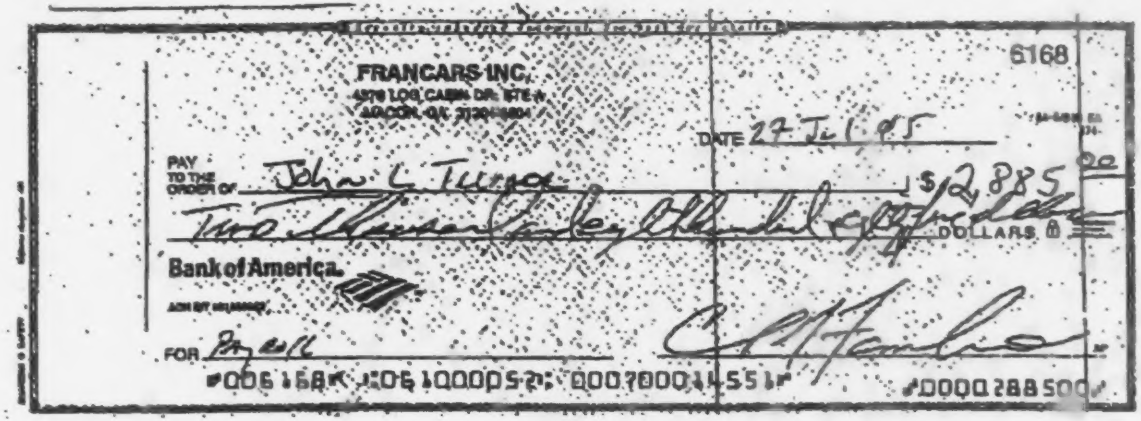
[illegible]	[illegible]	[illegible]	Bank Reference	[illegible]	Amount	Date Posted	Bank Reference
6167	22.00	07/20	813000620564211	6168	2,885.00	07/28	8130008009464

Daily Ledger Balances

Date	Balance	Date	Balance	Date	Balance
0	77.28	07/20	2,205.28	07/28	4,320.28
0.	2,227.28	07/26	7,205.28	07/29	4,304.50

PETITIONERS'

APPENDIX G-2



FRANCARS INC.
4378 LOG CABIN DR. STE A
MACON, GA 31204

6168

DATE 27 Jul 95

PAY TO THE ORDER OF John C. Turner $ 2,885 00/100

Two Thousand Eight hundred eighty five dollars DOLLARS

Bank of America.

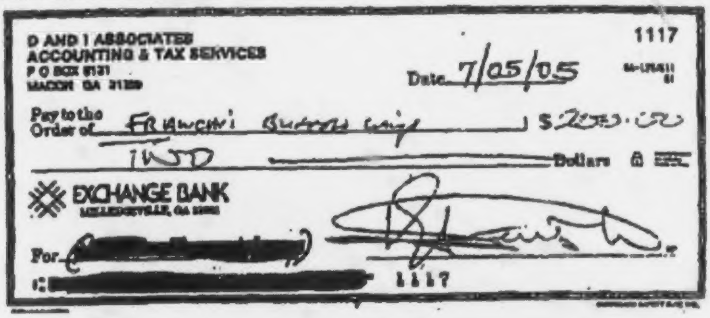
FOR Pay roll

C. M. Franklin

⑈006168⑈ ⑆061000052⑆ 0007000145510⑈ ⑈0000288500⑈

PETTITIONERS

APPENDIX G-3



D AND I ASSOCIATES
ACCOUNTING & TAX SERVICES
P O BOX [illegible]
MACON GA [illegible]

1117

Date 7/05/05

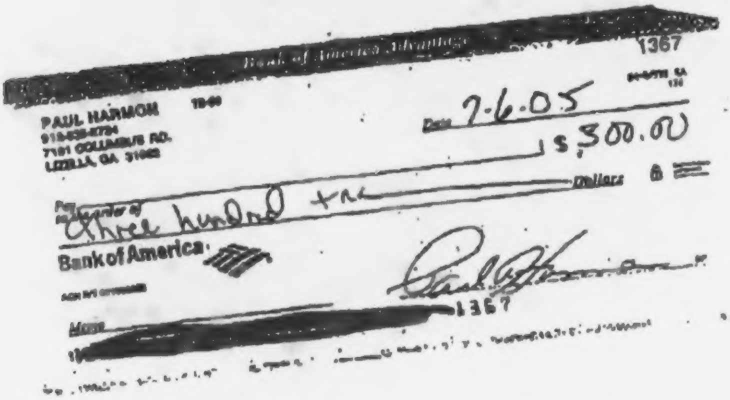
Pay to the Order of FRANCHI [illegible] $2[illegible]

TWO Dollars

EXCHANGE BANK
MILLEDGEVILLE, GA

For [redacted]

[redacted] 1117



Bank of America Advantage

1367

PAUL HARMON
[illegible]
7101 COLUMBUS RD.
LIZELLA, GA [illegible]

Date 7-6-05

$ 300.00

Dollars

Pay to the order of Three hundred +no

Bank of America

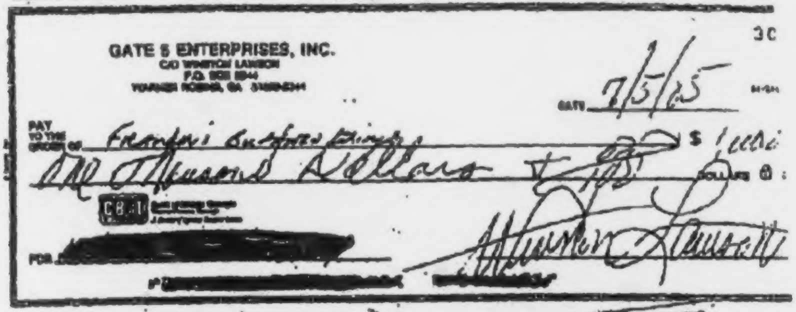
Memo [redacted]

1367

PETTITIONERS'

APPENDIX G-4

PLAINTIFF'S
EXHIBIT
U-3



3C

GATE 5 ENTERPRISES, INC.
C/O WINSTON LAWSON
P.O. BOX [illegible]
WARNER ROBINS, GA [illegible]

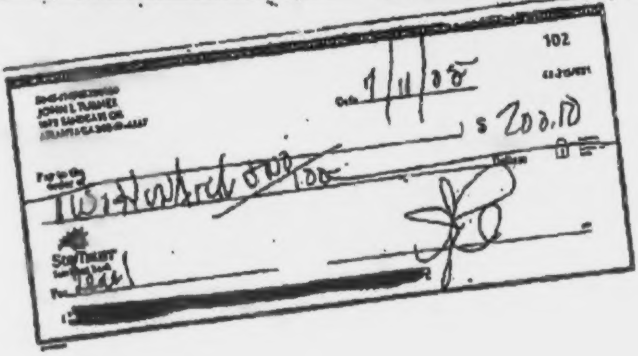
DATE 7/5/05

PAY TO THE ORDER OF [illegible] $ 1000

One Thousand Dollars & 00/100 DOLLARS

FOR [redacted]

[redacted] [redacted]



102

JOHN L TURNER
[illegible]
ATLANTA GA [illegible]

Date 7/11/08

Pay to the order of [illegible] $ 200.10

Two Hundred ~~200~~ .00 Dollars

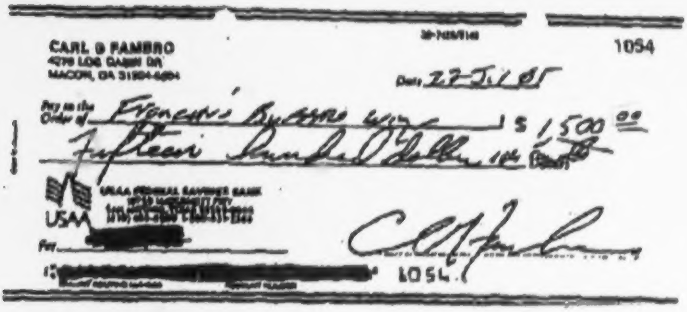
SunTrust

For [redacted]

[redacted]

PETTITIONERS'
APPENDIX G-5

PLAINTIFF'S
EXHIBIT
U-2



CARL D FAMBRO
4270 LOG CABIN DR
MACON, GA 31204-6804

1054

Date 27-Jul 05

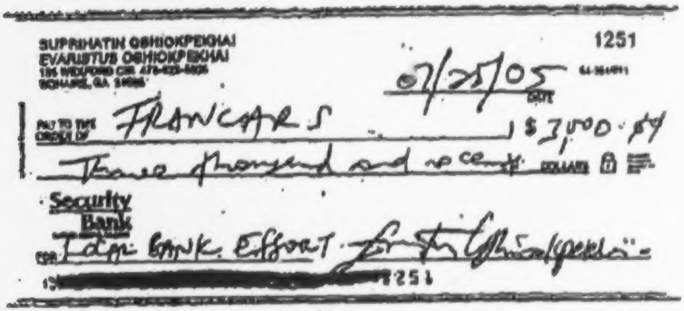
Pay to the Order of Evaristus [illegible] $ 1500 00/100

Fifteen hundred & 00/100 Dollars

USAA FEDERAL SAVINGS BANK

For [redacted]

[redacted] 1054



SUPRIHATIN OSHIOKPEKHAI
EVARISTUS OSHIOKPEKHAI

1251

07/25/05 DATE

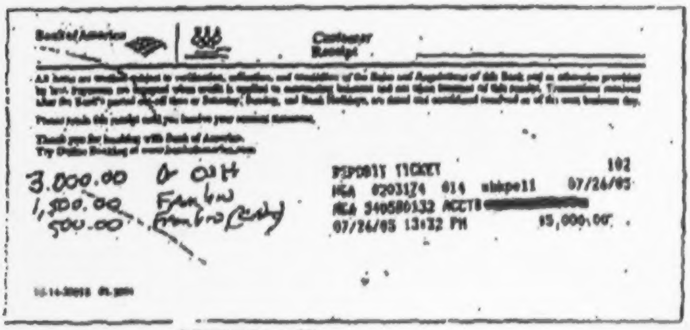
PAY TO THE ORDER OF FRANCARS $ 3,000.00

Three thousand and no cents DOLLARS

Security Bank

FOR Idahi BANK EFFORT

[redacted] 1251



Bank of America

Customer Receipt

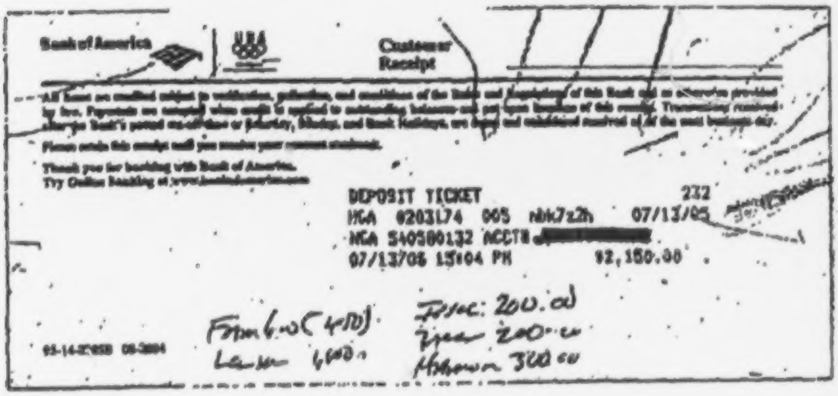
3,000.00 O OIH
1,500.00 Fambro
500.00 Fambro (Cash)

DEPOSIT TICKET 102
NGA 0203174 014 abkpell 07/26/05
NGA 340580132 ACCT# [redacted]
07/26/05 13:32 PM $5,000.00

PETITIONERS'

APPENDIX G-6

PLAINTIFF'S EXHIBIT U-1



Bank of America

Customer Receipt

[illegible]

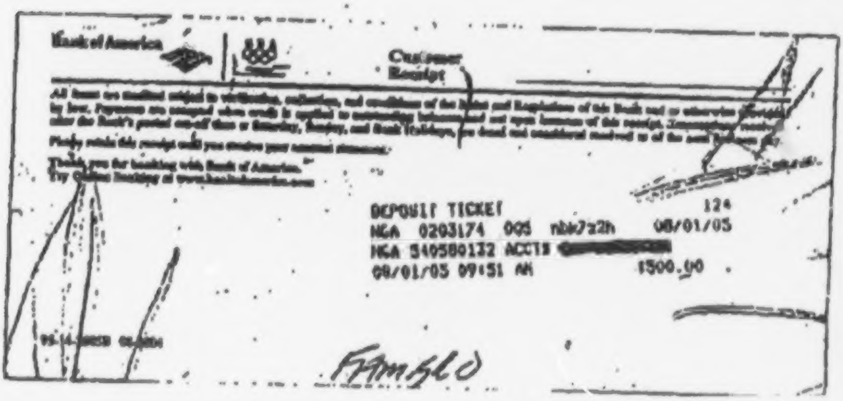
Please retain this receipt until you receive your account statement.

Thank you for banking with Bank of America.
Try Online Banking at www.bankofamerica.com

DEPOSIT TICKET 232
NGA 0203174 005 nbk7z2h 07/13/05
NGA 540580132 ACCT# [redacted]
07/13/05 15:04 PM $2,150.00

95-14-2785B 08-2004

Fambro (400)
Larson 400
Jesse: 200.00
Tyree 200.00
Hobson 300.00



Bank of America

Customer Receipt

[illegible]

Please retain this receipt until you receive your account statement.

Thank you for banking with Bank of America.
Try Online Banking at www.bankofamerica.com

DEPOSIT TICKET 124
NGA 0203174 005 nbk7z2h 08/01/05
NGA 540580132 ACCT# [redacted]
08/01/05 09:51 AM $500.00

95-14-2785B 08-2004

Fambro

PETTITIONERS'

APPENDIX G-7

PLAINTIFF'S EXHIBIT U-19

Bank of America

Bank of America, N.A.
P.O. Box 25118
Tampa, FL 33622-5118

1.800.432.1000
www.bankofamerica.com

Page 1 of 2
Account Number: [illegible]
ID P BC Enclosures 5
Statement Period
08/01/05 through 08/31/05

00627765 1 AB 0.301 18 01572 001 SC9999 E12
FRANCARS INC
4376 LOG CABIN DR STE A
MACON GA 31204-5604

Our free Online Banking service allows you to check balances, track account activity, pay bills and more.
With Online Banking you can also view up to 18 months of this statement online.
Enroll at www.bankofamerica.com/smallbusiness.

[illegible] Simple Analysis Business Checking [illegible]

Account Summary Information

Statement Period	08/01/05 through 08/31/05	Statement Beginning Balance	4,304.80
Number of Deposits/Credits	4	Amount of Deposits/Credits	6,500.00
Number of Withdrawals/Debits	6	Amount of Withdrawals/Debits	10,176.92
		Statement Ending Balance	627.88
Number of Enclosures	5	Average Ledger Balance	2,238.65
Number of Days in Cycle	31	Service Charge	33.05

Deposits and Credits

Date Posted	[illegible]	[illegible]	Bank Reference
08/01	500.00	Counter Credit	813000700104856
08/03	4,300.00	Counter Credit	813000600596477
08/15	1,200.00	Counter Credit	813000500692510
08/18	500.00	Counter Credit	813000700064497

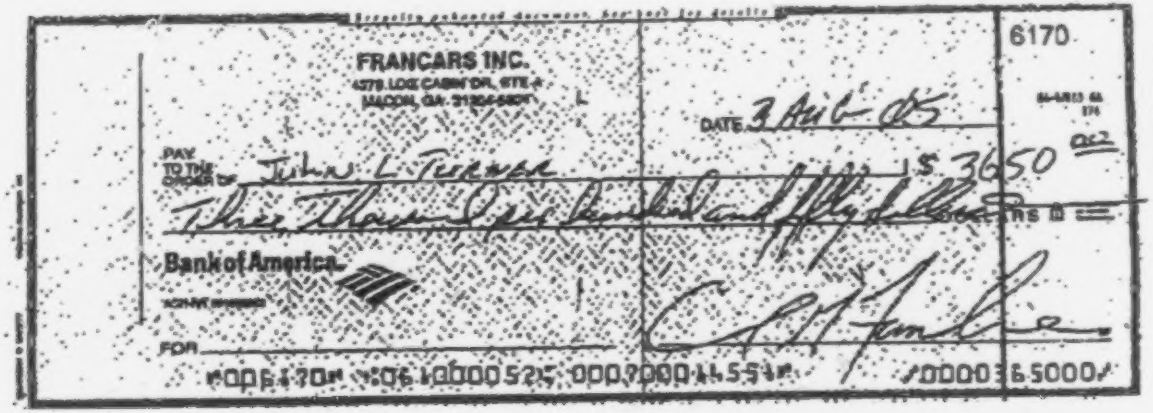
Withdrawals and Debits

Checks

Check Number	[illegible]	[illegible]	[illegible]	Check Number	Amount	Date Posted	Bank Reference
6169	3,000.00	08/04	813000[illegible]	6172	171.83	08/09	813001901072255
6170	[illegible]	08/08	813000[illegible]	6173	3,850.00	08/18	813000700005430
6171	85.05	08/08	813001100734421				

PETITIONERS'

APPENDIX G-8



6170

FRANCARS INC.
4379 LOG CABIN DR, STE 4
MACON, GA 31204-[illegible]

DATE 3 Aug 05

PAY TO THE ORDER OF John L Turner $ 3650 00/xx

Three Thousand Six Hundred and fifty dollars DOLLARS

Bank of America

FOR

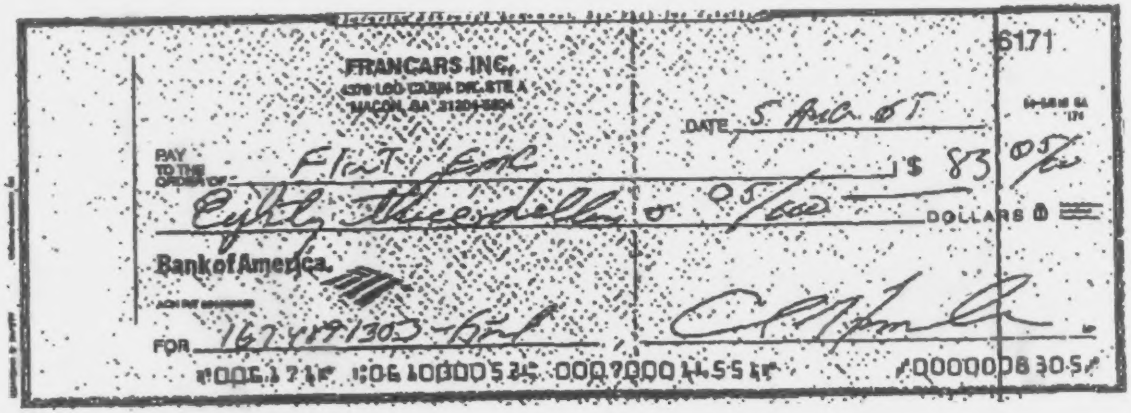
⑈006170⑈ ⑆061000052⑆ 000700044554⑈ ⑈0000365000⑈

PETTITIONERS'

APPENDIX G-9

PETTITIONERS'

APPENDIX G-10



6171

FRANCARS INC.
4378 LOG CABIN DR. STE A
MACON, GA 31204-5804

DATE 5 Aug 05

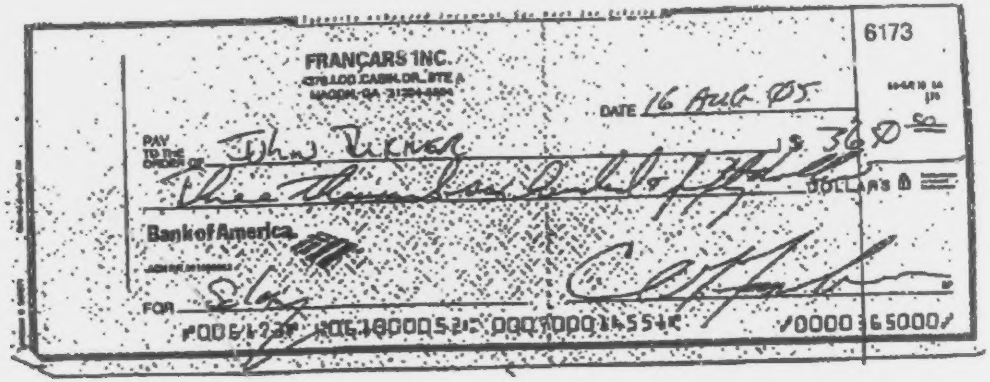
PAY TO THE ORDER OF FIAT Fmc $ 83 05/100

Eighty three dollars & 05/100 DOLLARS

Bank of America.

FOR 167489 1303 - Fiat

⑈006171⑈ ⑆061000052⑆ 000700044554⑈ ⑈0000008305⑈



6173

FRANÇARS INC.
4378 LOG CABIN DR., STE A
MACON, GA 31204-[illegible]

DATE 16 Aug 05

PAY TO THE ORDER OF John Tucker $ 360 50

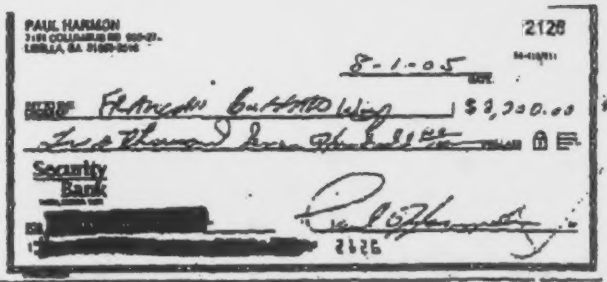
Three thousand six hundred & fifty DOLLARS

Bank of America

FOR Slry

⑈006123⑈ ⑆061000052⑆ 000100014554⑈ /0000365000/

PETTITIONERS'
APPENDIX G-11



PAUL HARMON

2128

8-1-05 DATE

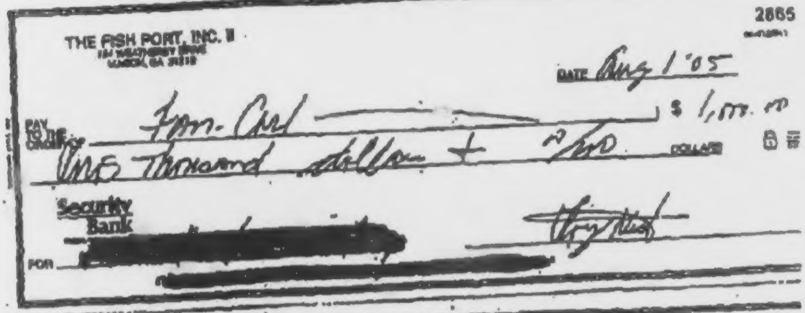
PAY TO THE ORDER OF Francisco Bustamante Wing $ 2,700.00 #2700

Two Thousand Seven Hundred Dollars 00/100 DOLLARS

Security Bank

[redacted]

[redacted] 2126



THE FISH PORT, INC. II

2865

DATE Aug 1 '05

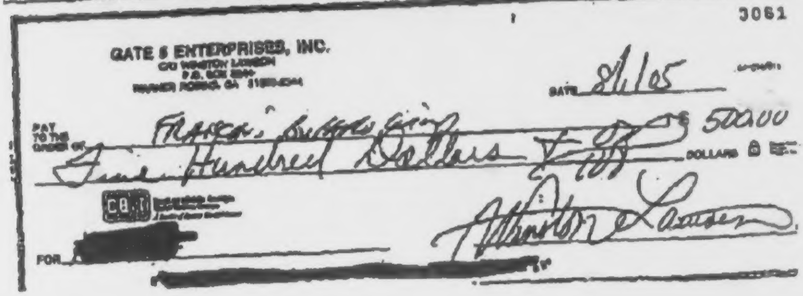
PAY TO THE ORDER OF Fran. Carl $ 1,000.00

One Thousand dollars + 00/100 DOLLARS

Security Bank

FOR [redacted]

[redacted]



GATE 5 ENTERPRISES, INC.
C/O WINSTON LAWSON

3061

DATE 8/1/05

PAY TO THE ORDER OF Francisco Bustamante Wing $ 500.00

Five Hundred Dollars + 00/100 DOLLARS

Winston Lawson

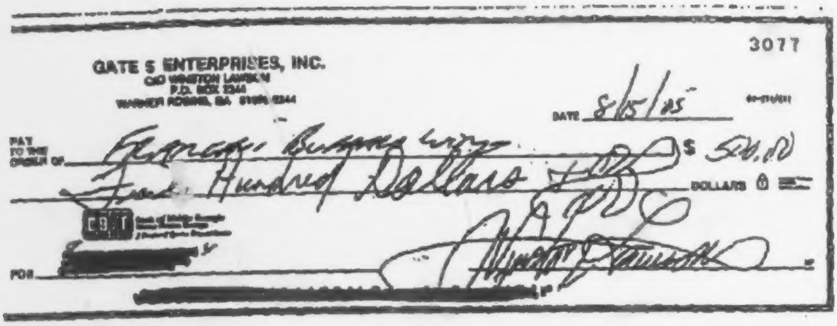
FOR [redacted]

[redacted]

PETITIONERS'

APPENDIX G-12

PLAINTIFF'S EXHIBIT U-4



3077

GATE 5 ENTERPRISES, INC.
C/O WINSTON LAWSON
P.O. BOX [illegible]
WARNER ROBINS, GA [illegible]

DATE 8/15/05

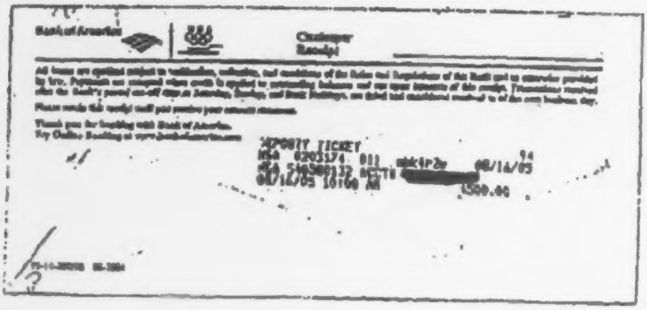
PAY TO THE ORDER OF [illegible]

$ 500.00

Five Hundred Dollars & 00/100 DOLLARS

FOR [redacted]

[redacted]



Bank of America

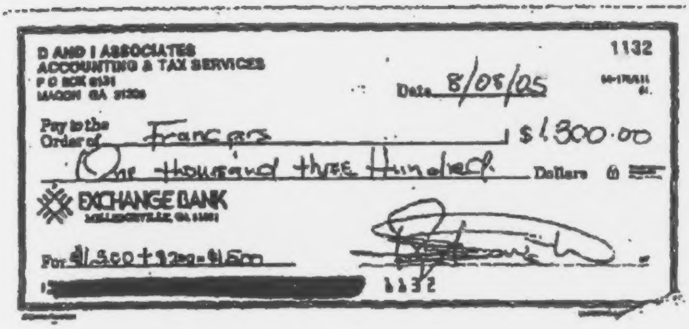
Customer Receipt

DEPOSIT TICKET
USA 0203174 011 [illegible] 94
[illegible] 08/16/05
[redacted]
08/16/05 10:06 AM
$500.00

PETTITIONERS'

APPENDIX G-13

PLAINTIFF'S EXHIBIT U-13



D AND I ASSOCIATES
ACCOUNTING & TAX SERVICES
P O BOX [illegible]
MACON GA [illegible]

1132

Date 8/05/05

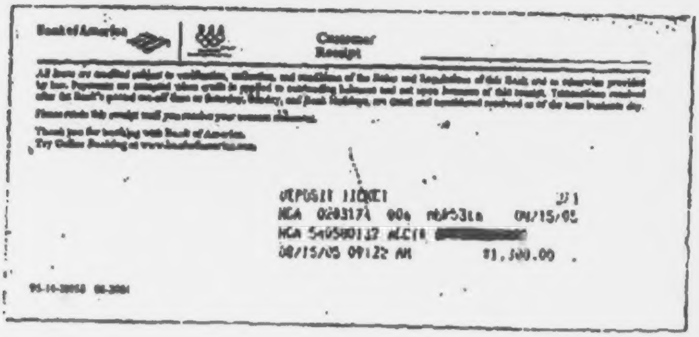
Pay to the Order of Francois $ 1300.00

One thousand three Hundred Dollars

EXCHANGE BANK
MILLEDGEVILLE, GA

For $1,300 + $200 = $1,500

[redacted] 1132



Bank of America

Customer Receipt

DEPOSIT TICKET
08/15/05 09:22 AM $1,300.00
ACCT# [redacted]

PETITIONERS'

APPENDIX G-14

PLAINTIFF'S EXHIBIT V-14

Bank of America

Bank of America, N.A.
P.O. Box 25118
Tampa, FL 33622-5118

1.800.432.1000
www.bankofamerica.com

H

Page 1 of 2
Account Number: [redacted]
ED P 0C Enclosures 2 44
Statement Period
09/01/05 through 09/30/05 0013770

00007560 1 AB 0.302 15 02172 001 0CA999 E1
FRANCARS INC
4376 LOG CABIN DR STE A
MACON GA 31204-5604

Our free Online Banking service allows you to check balances, track account activity, pay bills and more.
With Online Banking you can also view up to 18 months of this statement online.
Enroll at www.bankofamerica.com/smallbusiness.

Simple Analysis Business Checking

Account Summary Information

Statement Period	09/01/05 through 09/30/05	Statement Beginning Balance	227.58
Number of Deposits/Credits	3	Amount of Deposits/Credits	16,503.00
Number of Withdrawals/Debits	3	Amount of Withdrawals/Debits	10,971.02
		Statement Ending Balance	5,759.56
Number of Enclosures	2	Average Ledger Balance	2,216.21
Number of Days in Cycle	30	Service Charge	21.02

Deposits and Credits

Date Posted	Amount	Description	Bank Reference
09/07	3,600.00	Counter Credit	813000900303639
09/26	12,900.00	Counter Credit	813000100436689
09/28	3.00	Refund Check Enclosure Fee 8/31/05	839909280003880

Withdrawals and Debits

Checks

Check Number	Amount	Date Posted	Bank Reference	Check Number	Amount	Date Posted	Bank Reference
6174	3,650.00	09/12	813001100187132	6175	7,300.00	09/28	813000900629546

Daily Ledger Balances

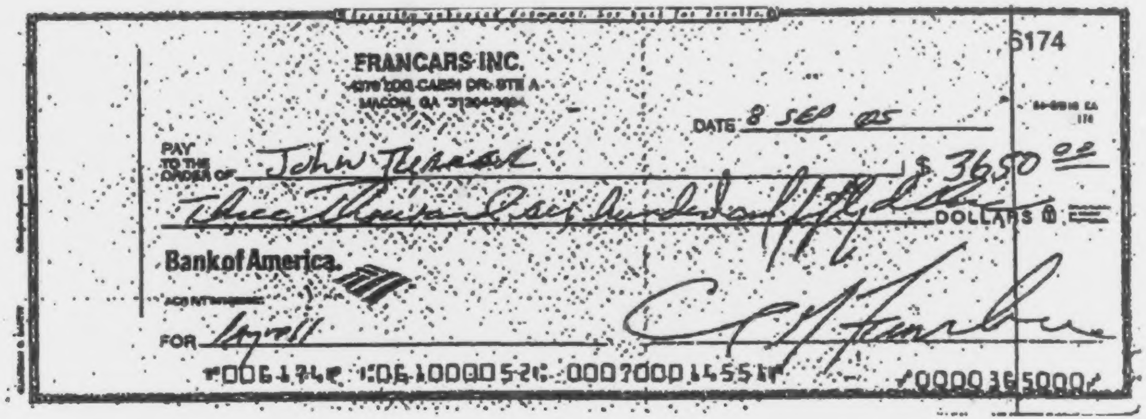
Date	Balance	Date	Balance	Date	Balance
09/0.	227.58	09/12	177.58	09/28	5,780.58
09/07	3,827.58	09/26	13,077.58	09/30	5,759.56

PETITIONERS'

APPENDIX G-15

PETTITIONERS'

APPENDIX G-16



6174

FRANCARS INC.
4370 LOG CABIN DR. STE A
MACON, GA 31204-[illegible]

DATE 8 SEP 05

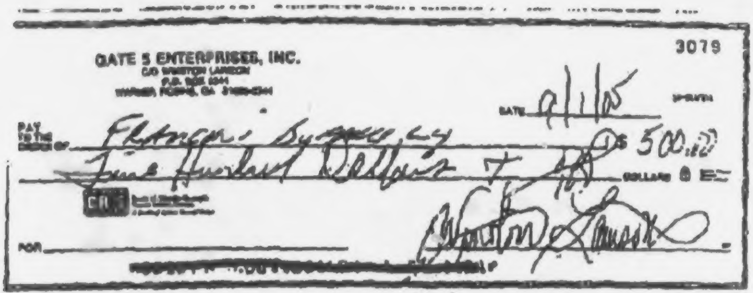
PAY TO THE ORDER OF John [illegible] $ 3650 00

Three thousand six hundred and fifty dollars DOLLARS

Bank of America.

FOR Payroll

⑈006174⑈ ⑆061000052⑆ 0007000145551⑈ ⑈0000365000⑈



GATE 5 ENTERPRISES, INC.
C/O WINSTON LARSON

3079

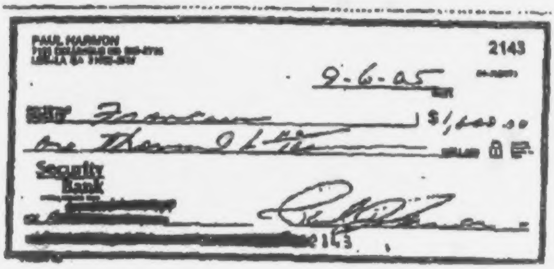
DATE 9/1/05

PAY TO THE ORDER OF [illegible] $ 500.00

Five Hundred Dollars & 00/xx DOLLARS

FOR

[redacted]



PAUL HARMON

2143

9-6-05

PAY TO THE ORDER OF [illegible] $1,000.00

One Thousand & 00/100 DOLLARS

Security Bank

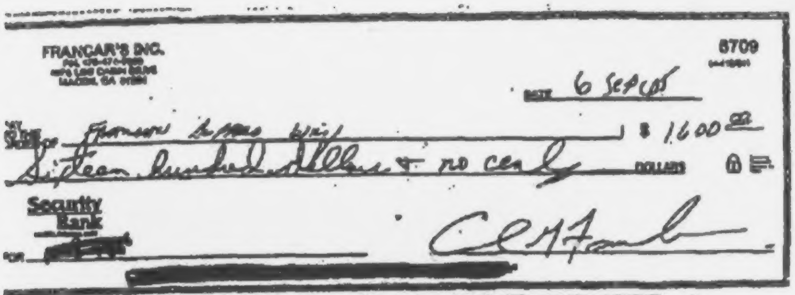
[redacted]

[redacted] 2143

PETITIONERS' EXHIBIT G-17

PLAINTIFF'S EXHIBIT U-12

PETITIONERS'
APPENDIX G-18


FRANCAR'S INC.

8709

DATE 6 Sep 05

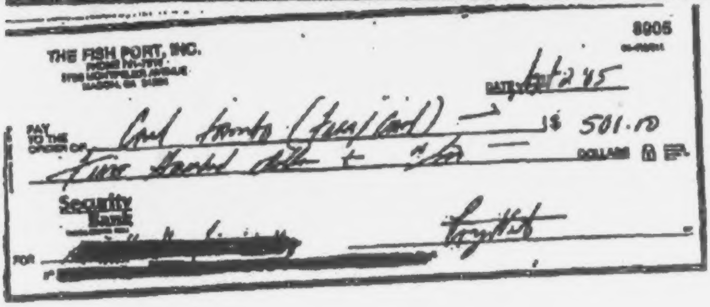
PAY TO THE ORDER OF [illegible] $ 1600 00

Sixteen hundred dollars & no cents DOLLARS

Security Bank

FOR [redacted]

[redacted]


THE FISH PORT, INC.

8905

DATE [illegible] 2 '05

PAY TO THE ORDER OF Carl [illegible] ([illegible]/Carl) $ 501.10

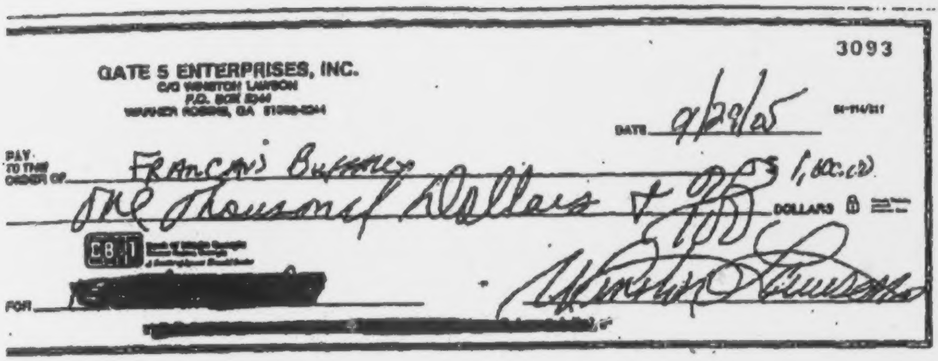
Five hundred dollars & [illegible] DOLLARS

Security Bank

FOR [redacted]

[redacted]

PLAINTIFF'S EXHIBIT
U-11



3093

GATE 5 ENTERPRISES, INC.
C/O WINSTON LAWSON
P.O. BOX 8244
WARNER ROBINS, GA 31095-8244

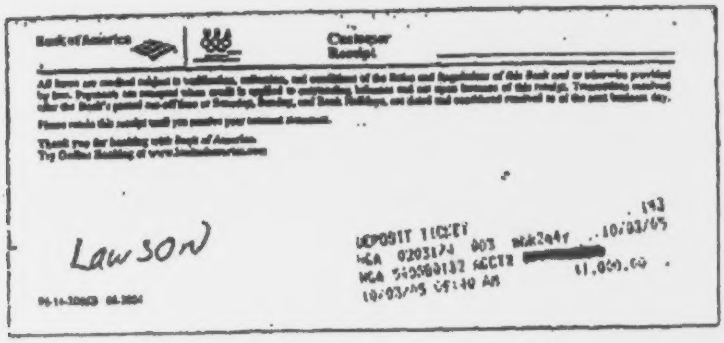
DATE 9/29/05

PAY TO THE ORDER OF FRANCOIS BUSSEY $ 1,000.00

One Thousand Dollars + 00/100 DOLLARS

FOR [redacted]

[redacted]



Bank of America

Customer Receipt

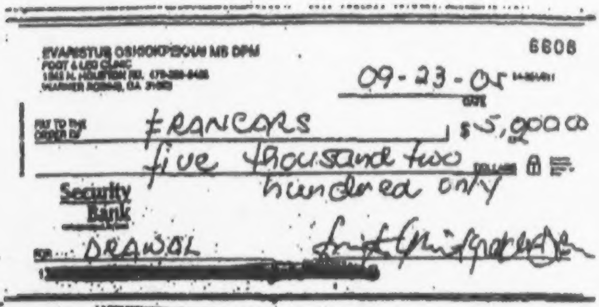
Lawson

DEPOSIT TICKET . 193
NGA 0203174 003 ..10/03/05
NGA ACCT# [redacted] $1,000.00
10/03/05 09:40 AM

PETITIONERS'

APPENDIX G-19

PLAINTIFF'S EXHIBIT U-10



EVARISTUS [illegible] MD DPM
FOOT & LEG CLINIC

6608

09-23-05

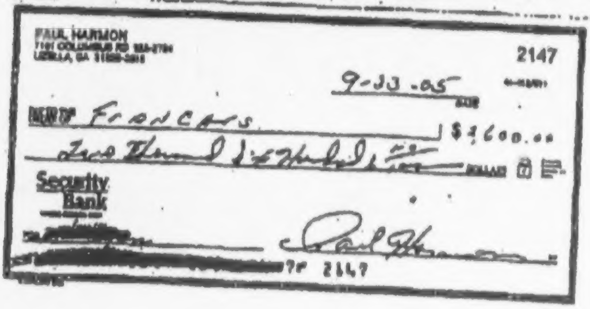
PAY TO THE ORDER OF FRANCARS $5,200.00

five thousand two hundred only DOLLARS

Security Bank

FOR DRAWAL

[redacted]



PAUL HARMON

2147

9-23-05

PAY TO THE ORDER OF Francars $2,600.00

Two Thousand Six Hundred $\frac{no}{100}$ DOLLARS

Security Bank

FOR [redacted]

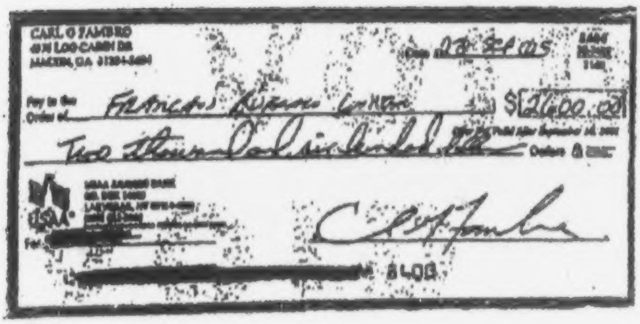
Paul Harmon

[redacted] 2147

PETTITIONERS'

APPENDIX G-20

PLAINTIFF'S EXHIBIT U-15



CARL G FAMBRO
[illegible] LOG CABIN DR
MACON, GA [illegible]

Date 02 Sep 05

Pay to the Order of [illegible] $2600.00

[illegible] Dollars

USAA

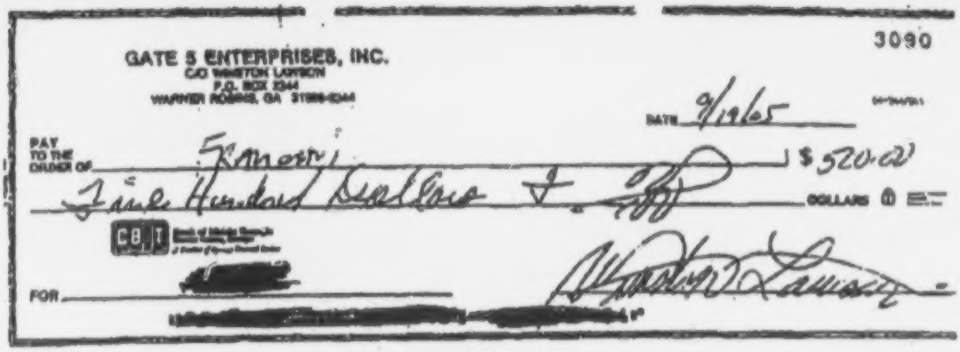
For [redacted]

[redacted] 8403

PETITIONERS'

APPENDIX G-21

PLAINTIFF'S EXHIBIT U-16



3090

GATE 5 ENTERPRISES, INC.
C/O WINSTON LAWSON
P.O. BOX [illegible]
WARNER ROBINS, GA [illegible]

DATE 9/19/05

PAY TO THE ORDER OF Francois $ 520.00

Five Hundred Dollars & 00/100 DOLLARS

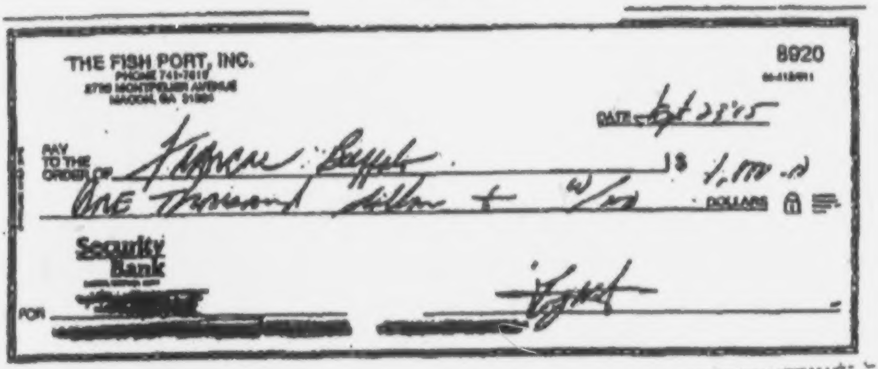
FOR [redacted]

Winston Lawson

[redacted]

PETTITIONERS'

APPENDIX G-22



8920

THE FISH PORT, INC.
PHONE 741-7616
[illegible] MONTPELIER AVENUE
MACON, GA [illegible]

DATE Sept 23 '05

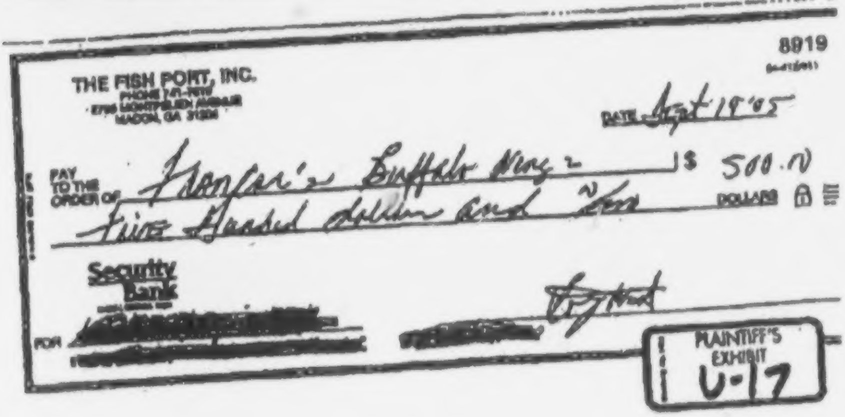
PAY TO THE ORDER OF Frances Buffalo $ 1,000.00

One Thousand dollars + 00/100 DOLLARS

Security Bank

FOR [redacted]

[redacted]



8919

THE FISH PORT, INC.
PHONE 741-7616
[illegible] MONTPELIER AVENUE
MACON, GA [illegible]

DATE Sept 19 '05

PAY TO THE ORDER OF Francar's Buffalo Wings $ 500.00

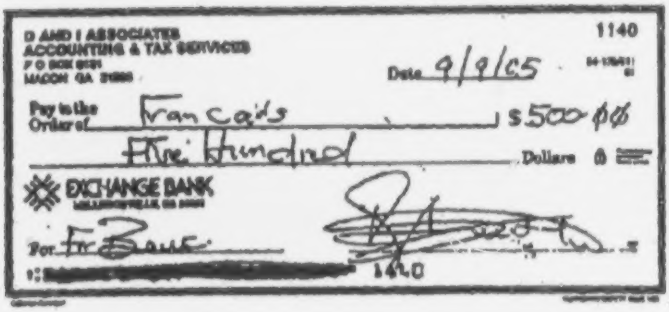
Five Hundred dollars and 00/100 DOLLARS

Security Bank

FOR [redacted]

[redacted]

PLAINTIFF'S EXHIBIT U-17



D AND I ASSOCIATES
ACCOUNTING & TAX SERVICES
P O BOX [illegible]
MACON GA [illegible]

1140

Date 9/9/05

Pay to the Order of Francois $500.00

Five Hundred Dollars

EXCHANGE BANK
[illegible]

For Fr Baue

[redacted] 1140

PETTITIONERS'
APPENDIX G-23

PLAINTIFF'S EXHIBIT D-18

Bank of America

Bank of America, N.A.
P.O. Box 25118
Tampa, FL 33622-5118

1.888.BUSINESS (1.888.287.4637)
www.bankofamerica.com

H

Page 1 of 2
Account Number: [redacted]
EB P 0C Enclosures 3
Statement Period
10/01/05 through 10/31/05

00006590 1 AB 0.302 23 01178 001 SCH999 31
FRANCARS INC
4376 LOG CABIN DR STE A
MACON GA 31204-5604

PETITIONERS'
APPENDIX G-24

Our free Online Banking service allows you to check balances, track account activity, pay bills and more.
With Online Banking you can also view up to 18 months of this statement online.
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Simple Analysis Business Checking

Account Summary Information

Statement Period	10/01/05 through 10/31/05	Statement Beginning Balance	5,759.56
Number of Deposits/Credits	2	Amount of Deposits/Credits	2,000.00
Number of Withdrawals/Debits	4	Amount of Withdrawals/Debits	7,472.00
		Statement Ending Balance	287.56
Number of Enclosures	3	Average Ledger Balance	2,076.47
Number of Days in Cycle	31	Service Charge	18.32

Deposits and Credits

10/03	1,000.00	Counter Credit	813000600963984
10/18	1,000.00	Counter Credit	813000400669556

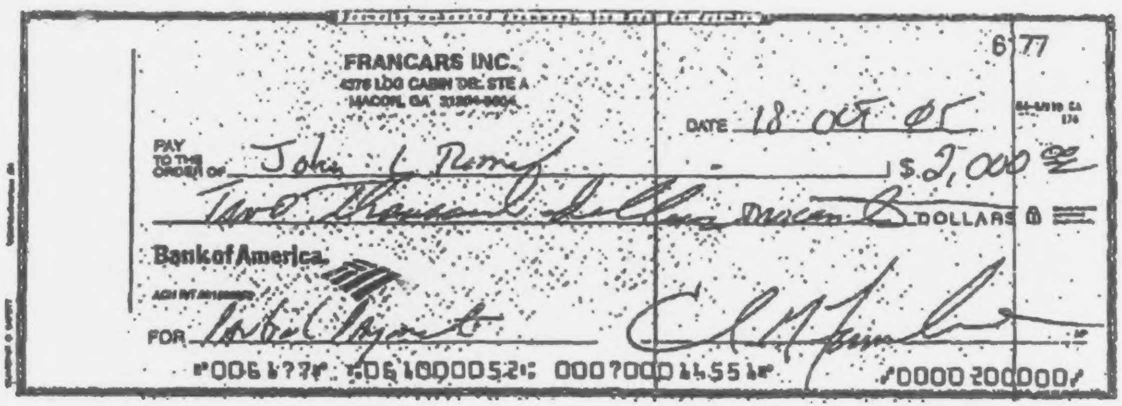
Withdrawals and Debits

Checks

Check Number	Amount	Date Posted	Bank Reference	Check Number	Amount	Date Posted	Bank Reference
6176	5,000.00	10/06	813001100369032	6178	453.68	10/25	813000100333342
6177	2,000.00	10/20	813001000426107				

Daily Ledger Balances

Date	Balance	Date	Balance	Date	Balance
10/01	5,759.56	10/18	2,759.56	10/31	287.56
10/03	6,759.56	10/20	759.56		
10/06	1,759.56	10/25	305.88		



FRANCARS INC.
4378 LOG CABIN DR. STE A
MACON, GA 31204-6604

6177

64-5/610 GA
174

DATE 18 OCT 05

PAY TO THE ORDER OF John L Remy $ 2,000 00

Two Thousand dollars no cents DOLLARS

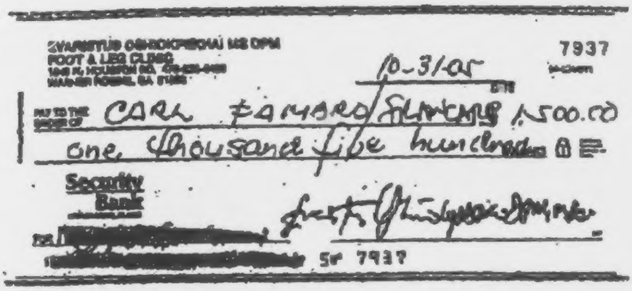
Bank of America

FOR Partial Payment

⑈006177⑈ ⑆061000052⑆ 000700014551⑈ ⑈0000200000⑈

PETTITIONERS'

APPENDIX G-25



FOOT & LEG CLINIC

7937

10-31-05

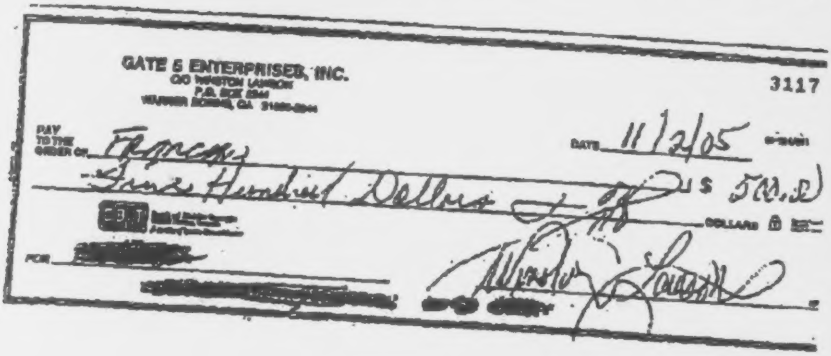
PAY TO THE ORDER OF CARL FAMBRO/SIMMONS 1,500.00

one thousand fibe hundred

Security Bank

FOR [redacted]

[redacted] 5# 7937



GATE 5 ENTERPRISES, INC.

3117

PAY TO THE ORDER OF Francars

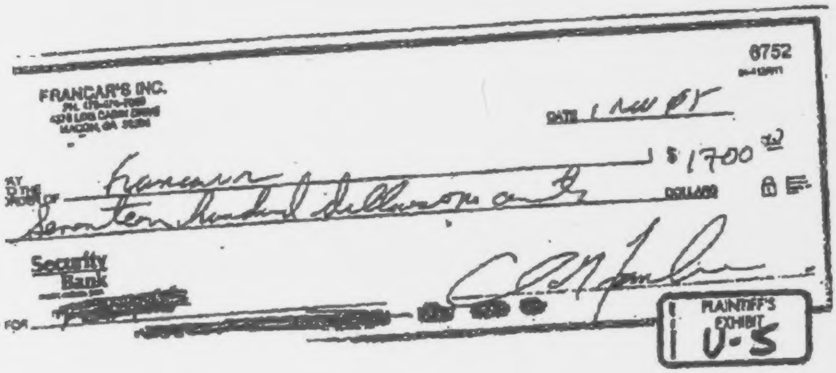
DATE 11/2/05

Five Hundred Dollars $ 500.00

DOLLARS

FOR [redacted]

[redacted]



6752

FRANCAR'S INC.

MACON, GA

DATE 1 Nov 05

$ 1700.00

PAY TO THE ORDER OF Francars

Seventeen hundred dollars no cents DOLLARS

Security Bank

FOR [redacted]

[redacted]

PLAINTIFF'S EXHIBIT U-5

Bank of America

Bank of America, N.A.
P.O. Box 25118
Tampa, FL 33622-5118

1.888.BUSINESS (1.888.287.4637)
www.bankofamerica.com

H1

Page 1 of 2
Account Number: [redacted]
E0 P 0C Enclosures 1 48
Statement Period
11/01/05 through 11/30/05 0012819

00005423 1 AB 0.301 15 61172 001 SCM799 I1
FRANCARS INC
4376 LOG CABIN DR STE A
MACON GA 31204-5604

Our free Online Banking service allows you to check balances, track account activity, pay bills and more.
With Online Banking you can also view up to 18 months of this statement online.
Enroll at www.bankofamerica.com/smallbusiness.

[illegible]

Account Summary Information

Statement Period	11/01/05 through 11/30/05	Statement Beginning Balance	237.56
Number of Deposits/Credits	1	Amount of Deposits/Credits	3,700.00
Number of Withdrawals/Debits	2	Amount of Withdrawals/Debits	3,768.70
		Statement Ending Balance	218.86
Number of Enclosures	1	Average Ledger Balance	612.56
Number of Days in Cycle	30	Service Charge	18.70

Deposits and Credits

11/01	3,760.00	Counter Credit	813000600571073

Withdrawals and Debits

Checks

6179	3,760.00	11/04	813001000460508

Daily Ledger Balances

11/01	3,997.56	11/04	237.56	11/30	218.86

PETITIONERS'

APPENDIX G-27

H

Bank of America

Bank of America, N.A.
P.O. Box 25118
Tampa, FL 33622-5118

1.888.BUSINESS (1.888.287.4637)
www.bankofamerica.com

Page 1 of 2
Account Number: [redacted]
FB F 0C Enclosures 3
Statement Period
12/01/05 through 12/31/05 00

00005469 1 AB 0.301 13 31172 001 SCM999 13
FRANCARS INC
4376 LOG CABIN DR STE A
MACON GA 31204-5604

Our free Online Banking service allows you to check balances, track account activity, pay bills and more.
With Online Banking you can also view up to 18 months of this statement online.
Enroll at www.bankofamerica.com/smallbusiness.

Simple Analysis Business Checking

Account Summary Information

6,17

Statement Period	12/01/05 through 12/31/05	Statement Beginning Balance	218
Number of Deposits/Credits	5	Amount of Deposits/Credits	7,175
Number of Withdrawals/Debits	6	Amount of Withdrawals/Debits	7,294
		Statement Ending Balance	99
Number of Enclosures	3	Average Ledger Balance	999
Number of Days in Cycle	31	Service Charge	44

Deposits and Credits

Date Posted	[illegible]	[illegible]	Bank Reference
12/02	5,000.00	Counter Credit	813000100552
12/06	500.00	Counter Credit	813000600050
12/06	175.00	Counter Credit	813000900295
12/13	1,000.00	Counter Credit (cr deposit cnt)	813000100781
12/13	500.00	Counter Credit	813000160761

Withdrawals and Debits

Checks

Check Number	Amount	Date Posted	Bank Reference	Check Number	Amount	Date Posted	Bank Reference
6180	3,750.00	12/06	813000300467200	6182	600.00	12/23	81300040011
6181	2,000.00	12/09	813000100756115				

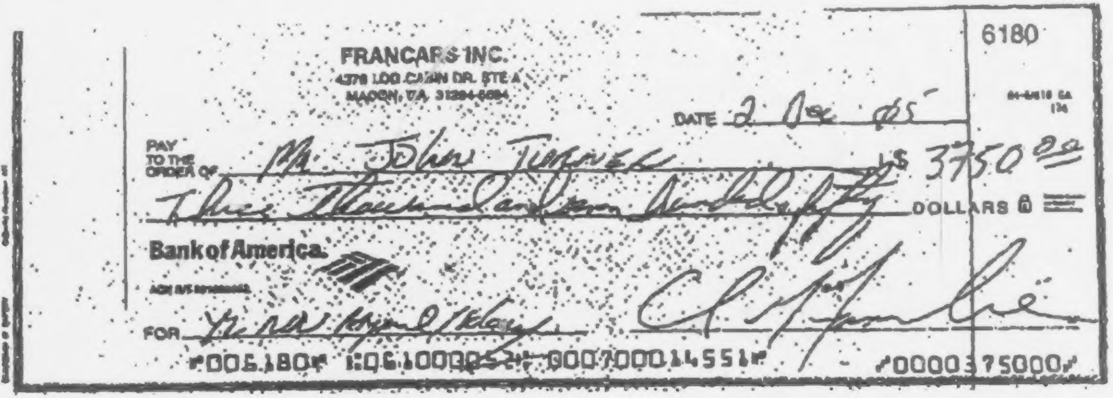
PETTITIONERS'

APPENDIX G-28

0 —

PETTITIONERS'

APPENDIX G-29



FRANCARS INC.
4378 LOG CABIN DR. STE A
MACON, GA 31204-6004

6180

64-6416 GA
1/4

DATE 2 Dec 05

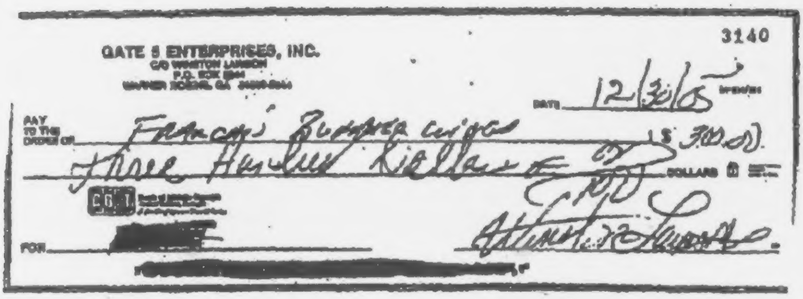
PAY TO THE ORDER OF Mr. John Turner $ 3750 00/00

Three Thousand and Seven Hundred Fifty DOLLARS

Bank of America

FOR [illegible]

⑈006180⑈ ⑆061000052⑆ 0007000114551⑈ ⑈0000375000⑈



3140

GATE 5 ENTERPRISES, INC.
C/O WINSTON LARSON
P.O. BOX [illegible]
WARNER ROBINS, GA [illegible]

DATE 12/30/05

PAY TO THE ORDER OF Francois [illegible] $ 300.00

Three Hundred Dollars & 00/100 DOLLARS

FOR [redacted]

[redacted]

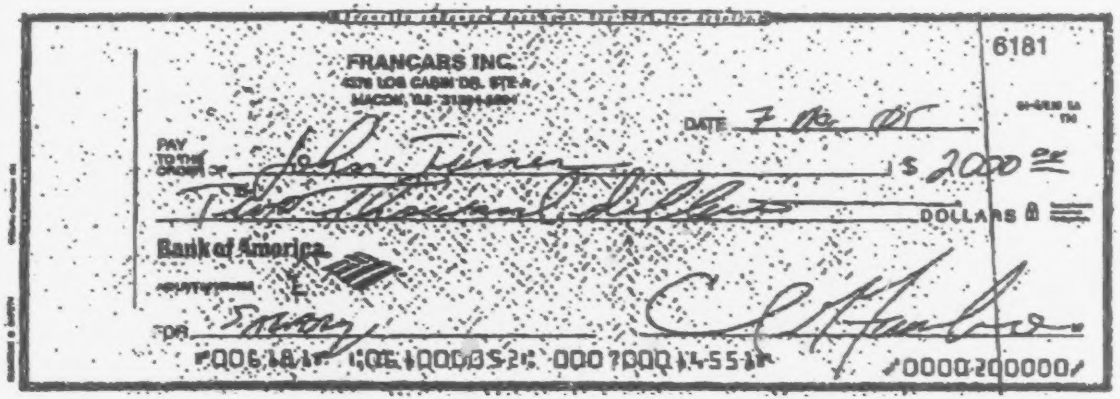
posted 1/01/06

PETITIONERS'
APPENDIX G-30

PLAINTIFF'S EXHIBIT U-6

PETTITIONERS'

APPENDIX G-31



6181

FRANCARS INC.
4370 LOG CABIN DR. STE A
MACON, GA 31204-[illegible]

DATE 7 Ma 05

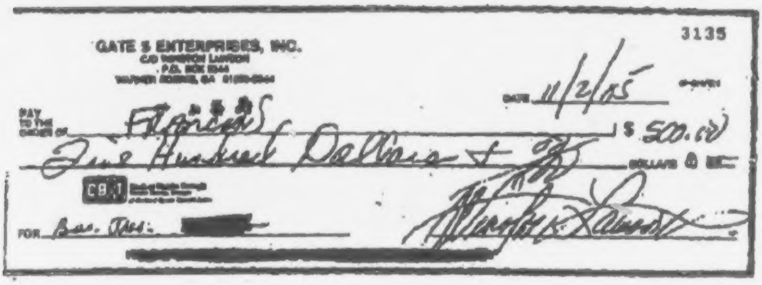
PAY TO THE ORDER OF John Turner $ 2000 00/xx

Two Thousand dollars DOLLARS

Bank of America

FOR Emory

⑈006181⑈ ⑆061000052⑆ 000700014551⑈ ⑈0000200000⑈



3135

GATE 5 ENTERPRISES, INC.

PAY TO THE ORDER OF Florida's

DATE 11/2/05

$ 500.00

Five Hundred Dollars + 00/100 DOLLARS

FOR Bus. Exp.: [redacted]

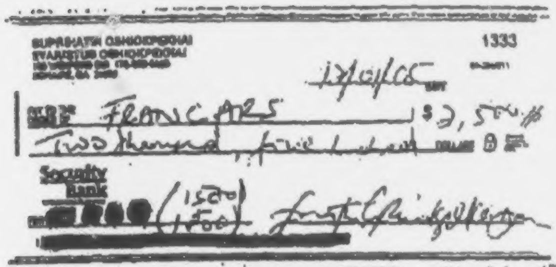
[redacted]

PETITIONERS'

APPENDIX G-32

PLAINTIFF'S EXHIBIT V-8

APPENDIX G-33



1333

DATE 12/01/05

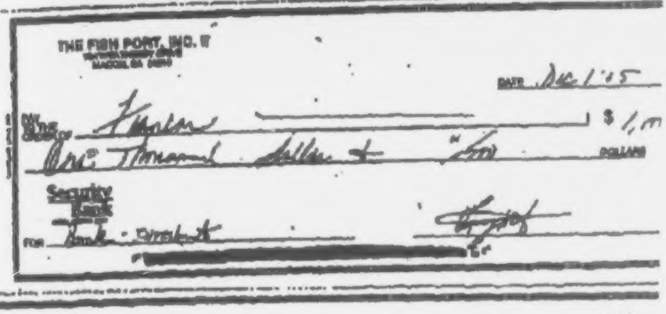
PAY TO THE ORDER OF FRANCARS $ 2,500.#

Two thousand, five hundred DOLLARS

Security Bank

MEMO [redacted] (1500 1500)

[redacted]



THE FISH PORT, INC. II

DATE Dec 1 '05

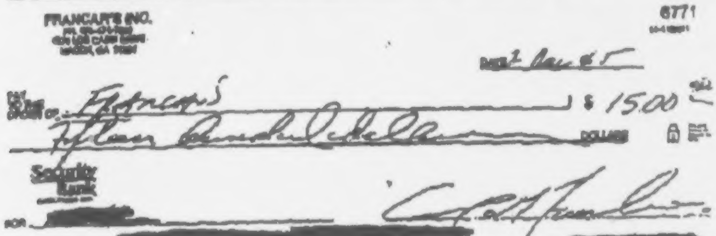
PAY TO THE ORDER OF [illegible] $ 1,[illegible]

One Thousand dollar + 00 DOLLARS

Security Bank

FOR Bank - [illegible]

[redacted]



FRANCAR'S INC.

6771

DATE 2 Dec 05

PAY TO THE ORDER OF Francars $ 15.00

Fifteen hundred dollars DOLLARS

Security Bank

FOR [redacted]

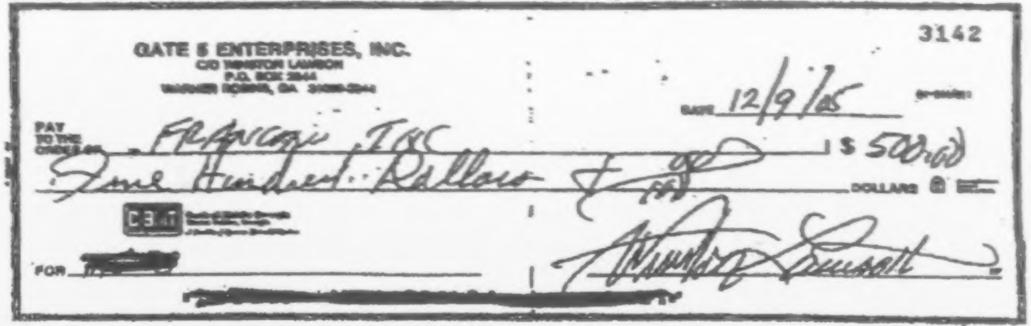
[redacted]

PLAINTIFF'S EXHIBIT
U-9

PETTITIONERS'

APPENDIX G-34

PLAINTIFF'S EXHIBIT U-7



3142

GATE 5 ENTERPRISES, INC.
C/O WINSTON LAWSON
P.O. BOX 2044
WARNER ROBINS, GA 31099-2044

DATE 12/9/05

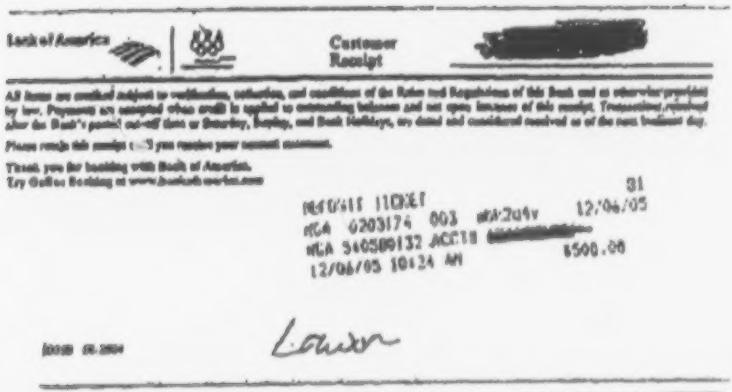
PAY TO THE ORDER OF FRANCOIS INC $ 500.00

Five Hundred Dollars & 00/100 DOLLARS

FOR [redacted]

[redacted]

Posted
1/11/02



Bank of America

Customer Receipt

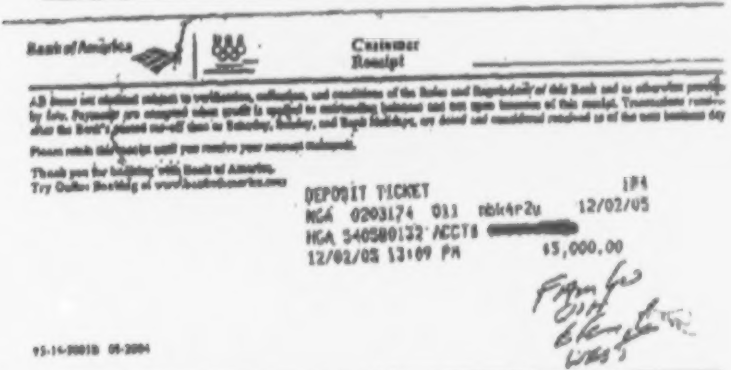
[redacted]

Thank you for banking with Bank of America.

DEPOSIT TICKET 31
MGA 0203174 003 mbk2u4v 12/06/05
MGA 540580132 ACCT# [redacted] $500.00
12/06/05 10:24 AM

[illegible] 06-2004

Lawson



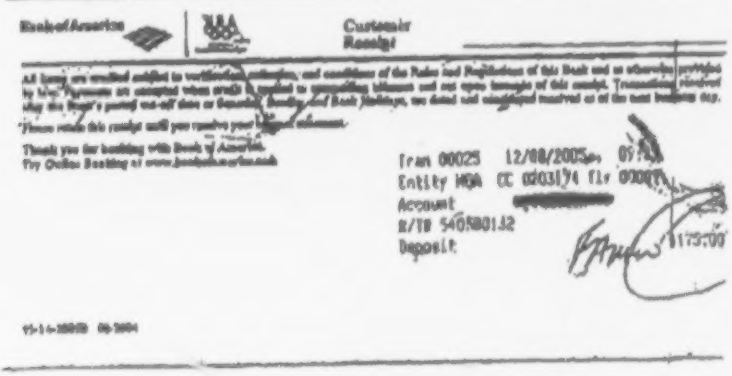
Bank of America

Customer Receipt

Thank you for banking with Bank of America.

DEPOSIT TICKET 1F4
MGA 0203174 011 mbk4r2u 12/02/05
MGA 540580132 ACCT# [redacted] $5,000.00
12/02/05 13:09 PM

95-14-0001B 06-2004



Bank of America

Customer Receipt

Thank you for banking with Bank of America.

Tran 00025 12/08/2005 [illegible]
Entity MGA CC 0203174 Flr 0300[illegible]
Account [redacted]
R/T# 540580132
Deposit $175.00

95-14-0001B 06-2004

PETTITIONERS'

APPENDIX G-35

BankofAmerica

Bank of America, N.A.
P.O. Box 25118
Tampa, FL 33622-5118

1.888.BUSINESS (1.888.287.4637)
www.bankofamerica.com

Page 1 of 2
Account Number: [redacted]
[illegible] Enclosures 1
Statement Period
01/01/06 through 01/31/06

00006060 01 AB 0.337 33 43372 001 SO0099 T13
FRANCARS INC
4376 LOG CABIN DR STE A
MACON GA 31204-5684

Our free Online Banking service allows you to check balances, track account activity, pay bills and more.
With Online Banking you can also view up to 18 months of this statement online.
Enroll at www.bankofamerica.com/smallbusiness.

[illegible] Small Business [illegible] Checking [illegible]

Account Summary Information

Statement Period	01/01/06 through 01/31/06	Statement Beginning Balance	99.
Number of Deposits/Credits	1	Amount of Deposits/Credits	300.
Number of Withdrawals/Debits	3	Amount of Withdrawals/Debits	321.
		Statement Ending Balance	77
Number of Enclosures	1	Average Ledger Balance	118
Number of Days in Cycle	31	Service Charge	21

Deposits and Credits

Date Posted	Amount ($)	Description	Bank Reference
01/21	300.00	Counter Credit	81300033031?1

Withdrawals and Debits

Checks

Check Number	Amount ($)	Date Posted	Bank Reference
0163	200.00	01/13	813000000468341

Daily Ledger Balances

Date	Balance ($)	Date	Balance ($)
01/[illegible]	99.36	01/03	99.16
0[illegible]	[illegible].36	01/31	77.46

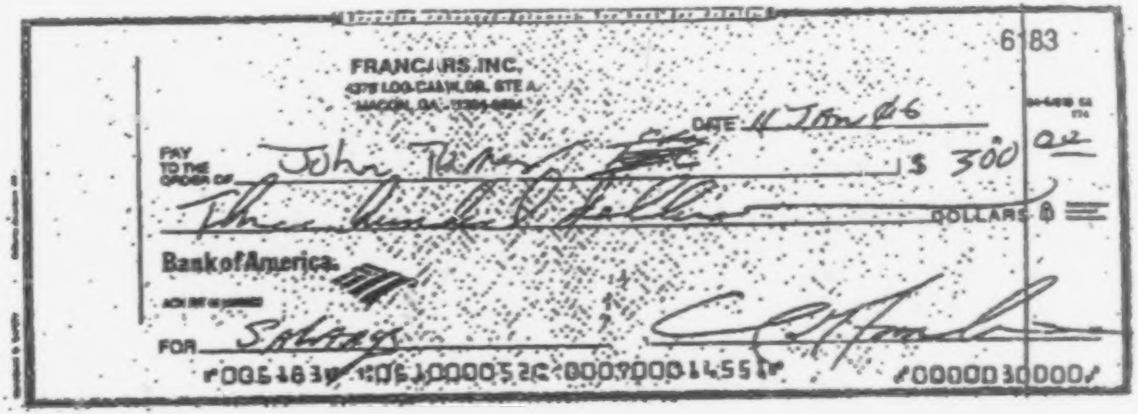
PETITIONER'S

APPENDIX G-36

PLAINTIFF'S
EXHIBIT
Q

PETTITIONERS'

APPENDIX G-37



6183

FRANCARS, INC.
4375 LOG CABIN DR. STE A
MACON, GA [illegible]

DATE 11 Jan 06

PAY TO THE ORDER OF John [illegible] $ 300 00

Three hundred & [illegible] DOLLARS

Bank of America

FOR Salary

⑆006183⑆ ⑆061000052⑆ 000700014551⑈ ⑆0000030000⑆

APPENDIX H

1. Appendix H: Plaintiffs' EXHIBIT N- Local MG LLC bank statement (Citizens Trust Bank) July 29, 2005; Civil Case – *Carl G. Fambro, Evaristus Oshiokpekhai, Isaac Eferighe, Paul Harmon, Winston Lawson, Roy West, Tyrone Evans vs. Local MG LLC; Carol A. Ervin; Bobby J. Brown, Sr.; and Sherman Outler;* Civil Action No. 2005-V-82124-N, date filed December 20, 2006.

CITIZENS TRUST BANK
POST OFFICE BOX 4485
ATLANTA, GEORGIA 30302
404 659-5959

FDIC

******************MIXED AADC 303
[redacted] 12 21 2
LOCAL MG LLC
138 SOLOMON ROAD
KATHLEEN GA 31047-2710

SMALL BUSINESS CKG
7/29/05 [redacted]
1 BRANCH-[redacted]

The basic daily limits for CTB Debit/ATM cards have been raised. Effective March 7, 2005, the new basic daily limit for the ATM is $500 and the new basic daily limit for Point of Sale is $500. Contact any CTB Branch if you would like a MasterMoney Debit Card.

[redacted] SUMMARY FOR SMALL BUSINESS CKG

BEGINNING BALANCE	7/01/05	9,102.35
DEPOSITS / MISC CREDITS	0	.00
WITHDRAWALS / MISC DEBITS	5	557.12
ENDING BALANCE	7/31/05	8,545.23
SERVICE CHARGE		.00
AVERAGE BALANCE		8,710
ENCLOSURES		4

MISCELLANEOUS DEBITS AND CREDITS

DATE	AMOUNT	DESCRIPTION
[illegible]/05	60.00 DR	[redacted] LOCAL MG/TRANSFER ✓ 9115 V2

CHECKS POSTED

DATE	CHECK NO.	AMOUNT	DATE	CHECK NO.	AMOUNT
[illegible]/05	1082	450.00 ✓	7/22/05	1084	5.1
[illegible]/05	1083	37.00 ✓	7/25/05	1085	3.9

DAILY BALANCE SUMMARY

DATE	BALANCE	DATE	BALANCE
[illegible]	8,652.35	7/22/05	8,549.18
[illegible]	8,555.35	7/25/05	8,545.23

PETTITIONERS'
APPENDIX H

PLAINTIFF'S
EXHIBIT
N

NOTICE SEE REVERSE SIDE FOR ADDITIONAL INFORMATION

176

APPENDIX I – CONSTITUTIONAL AND STATUTORY PROVISIONS

Federal Statutory Provisions involved:

—CITE-   01/03/2007

TITLE 26 - INTERNAL REVENUE CODE
Subtitle C - Employment Taxes
CHAPTER 21 - FEDERAL INSURANCE CONTRIBUTIONS ACT
Subchapter A - Tax on Employees

Sec. 3101. Rate of tax

-STATUTE

(a) Old—age, survivors, and disability insurance

In addition to other taxes, there is hereby imposed on the income of every individual a tax equal to the following percentages of the wages (as defined in section 3121 (a))

Petitioners
Appendix I

received by him with respect to employment (as defined in section 3121(b)) -

In cases of wages received during: The rate shall be:

1984, 1985, 1986, or 1987	5.7 percent
1988 or 1989	6.06 percent
1990 or thereafter	6.2 percent.

TITLE 26 - INTERNAL REVENUE CODE
Subtitle C — Employment Taxes

CHAPTER 21- FEDERAL INSURANCE CONTRIBUTIONS ACT
Subchapter A Tax on Employees

Sec. 3102. Deduction of tax from wages

-STATUTE-

(a) Requirement

APPENDIX I – CONSTITUTIONAL AND STATUTORY PROVISIONS

The tax imposed by section 3101 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid. An employer who in any calendar year pays to an employee cash remuneration to which paragraph (7) (B) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than the applicable dollar threshold (as defined in section 3121(x)) for such year; and an employer who in any calendar year pays to an employee cash

remuneration to which paragraph (7) (C) or (10) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than $100;"

TITLE 26 - INTERNAL REVENUE CODE
Subtitle C - Employment Taxes
CHAPTER 21 - FEDERAL INSURANCE CONTRIBUTIONS ACT
Subchapter C- General Provisions

Sec. 3121. Definitions

-STATUTE-

"(a) Wages

APPENDIX I – CONSTITUTIONAL AND STATUTORY PROVISIONS

For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that such term shall not include —

(1) in the case of the taxes imposed by sections 3101(a) and 3111(a) that part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding paragraphs C of this subsection) equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) with respect to employment has been paid to an individual by an employer during the calendar year with

respect to which such contribution and benefit base is effective, is paid to such individual by such employer during such calendar year. If an employer (hereinafter referred to as successor employer) during any calendar year acquires substantially all the property used in a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether the successor employer has paid remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) to such individual during such calendar year, any remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer; "

CITE

26 USC Sec. 3402 01/03/2007

APPENDIX I – CONSTITUTIONAL AND STATUTORY PROVISIONS

-EXPCITE

-TITLE 26 - INTERNAL REVENUE CODE
Subtitle C - Employment Taxes
CHAPTER 24 - COLLECTION OF INCOME TAX AT SOURCE ON WAGES

Sec. 3402. Income tax collected at source

-STATUTE-

"(a) Requirement of withholding

(1) In general

Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables or computational procedures prescribed by the

Secretary. Any tables or procedures prescribed under this paragraph shall -

(A) apply with respect to the amount of wages paid during such periods as the Secretary may prescribe, and

(B) be in such form, and provide for such amounts to be deducted and withheld, as the Secretary determines to be most appropriate to carry out the purposes of this chapter and to reflect the provisions of chapter 1 applicable to such periods.

(2) Amount of wages

For purposes of applying tables or procedures prescribed under paragraph (1), the term "the amount of wages" means the

amount by which the wages exceed the number of withholding exemptions," *et. seq.*

-CITE-

26 USC Sec. 3403 01/03/2007

-EXPCITE

TITLE 26 – INTERNAL REVENUE CODE

Subtitle C - Employment Taxes

CHAPTER 24 — COLLECTION OF INCOME TAX AT SOURCE ON WAGES

Sec. 3403[1]. Liability for tax

---

[1] **SOURCE-**

(Aug. 16, 1954, ch. 736, 68A Stat. 469; Pub. L. 97—248, title III, Secs. 307 (a) (2), 308(a), Sept. 3, 1982, 96

APPENDIX I – CONSTITUTIONAL AND STATUTORY PROVISIONS

-STATUTE-

"The employer shall be liable for the payment of the tax required to be deducted and withheld under this chapter, and shall

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Stat. 589, 591; Pub. L. 98—67, title I, Sec. 102(a), Aug. 5, 1983, 97 Stat. 369.) -MISC1- AMENDMENTS 1983 - Pub. L. 98—67 repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below. 1982 - Pub. L. 97—248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, this section is amended by striking out "this chapter" and inserting in lieu thereof "this subchapter". Section 102(a), (b) of Pub. L. 98—67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (Secs. 301—308) of title III of Pub. L. 97—248 not be liable to any person for the amount of any such payment."

-CITE-

26 USC Sec. 3505 01/03/2007

-EXPCITE

TITLE 26 - INTERNAL REVENUE CODE
Subtitle C — Employment Taxes
CHAPTER 25 - GENERAL PROVISIONS RELATING TO EMPLOYMENT TAXES

Sec. 3505. Liability of third parties paying or providing for *wages*

-STATUTE-

"(a) Direct payment by third parties

For purposes of sections 3102, 3202, 3402, and 3403, if a lender, surety, or other person, who is not an employer under such sections with respect to an employee or group of employees, pays wages directly to such an employee or group of employees, employed by one or more employers, or to an agent on behalf of such employee or employees, such lender, surety, or other person shall be liable in his own person and estate to the United States in a sum equal to the taxes (together with interest) required to be deducted and withheld from such wages by such employer.

(b) Personal liability where funds are supplied

If a lender, surety, or other person supplies funds to or for the account of an employer for the specific purpose of paying wages of the employees of such employer, with actual notice or knowledge (within the meaning of section 6323(i) (1)) that such employer does not intend to or will not be able to make timely payment or deposit of the amounts of tax required by this subtitle to be deducted and withheld by such employer from such wages, such lender, surety, or other person shall be liable in his own person and estate to the United States in a sum equal to the taxes (together with interest) which are not paid over to the United States by such employer with respect to such wages. However, the liability of such lender, surety, or other person shall be limited to an amount equal to 25 percent of the amount so supplied to or for the account of such employer for such purpose.

(c) Effect of payment

Any amounts paid to the United States pursuant to this section shall be credited against the liability of the employer.

- SOURCE (Added Pub. L. 89—719, title I, Sec. 105 (a), Nov. 2, 1966, 80 Stat. 1138.)

-MISC1-

EFFECTIVE DATE

Section applicable only with respect to wages paid on or after Jan. 1, 1967, see section 114© (1) of Pub. L. 89-719, set out as an Effective Date of 1966 Amendment note under section 6323 of this title.

-CITE-

26 USC Sec. 6301 01/03/2007

—EXPCITE

APPENDIX I – CONSTITUTIONAL AND STATUTORY PROVISIONS

TITLE 26 - INTERNAL REVENUE CODE
Subtitle F - Procedure and Administration
CHAPTER 64 - COLLECTION
Subchapter A — General Provisions

Sec. 6301. Collection authority

-STATUTE-

The Secretary shall collect the taxes imposed by the internal revenue laws.

-SOURCE-

(Aug. 16, 1954, ch. 736, 68A Stat. 775; Pub. L. 94—455, title XIX, Sec. 1906(b) (13) (A), Oct. 4, 1976, 90 Stat. 1834.)

-MISC1— AMENDMENTS

1976 — Pub. L. 94—455 struck out "or his delegate" after "Secretary".

CITE

APPENDIX I – CONSTITUTIONAL AND STATUTORY PROVISIONS

26 USC Sec. 6302

TITLE 26 - INTERNAL REVENUE CODE
Subtitle F - Procedure and Administration
CHAPTER 64 - COLLECTION
Subchapter A — General Provisions

Sec. 6302. Mode or time of collection

-STATUTE-

(a) Establishment by regulations

If the mode or time for collecting any tax is not provided for by this title, the Secretary may establish the same by regulations.

(b) Discretionary method

Whether or not the method of collecting any tax imposed by chapter 21, 31, 32, or 33, or by section 4481 is specifically provided for by this title, any such tax may, under regulations prescribed by the Secretary, be collected by means of returns, stamps, coupons, tickets, books, or such other reasonable devices or methods as may be necessary or helpful in securing a complete and proper collection of the tax.

(c) Use of Government depositaries

The Secretary may authorize Federal Reserve banks, and incorporated banks, trust companies, domestic building and loan associations, or credit unions which are depositaries or financial agents of the United States, to receive any tax imposed under the internal revenue laws, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, times, and Conditions under which the receipt of such tax by such banks, trust companies, domestic building and loan associations, and credit unions is to be treated as payment of such tax to the Secretary.

State Statutory Provisions Involved:

Current through the 2008 Regular Session

TITLE 9. CIVIL PRACTICE
CHAPTER 11. CIVIL PRACTICE ACT
ARTICLE 2. COMMENCEMENT OF ACTION AND SERVICE

O.C.G.A. § 9-11-5 (2008)

"§9-11-5. Service and filing of pleadings subsequent to the original complaint and other papers

(a) Service -- When required. Except as otherwise provided in this chapter, every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, and similar paper shall be served upon each of the parties. However, the failure of a party to file pleadings in an action shall be permitted to intervene in an action: "

TITLE 9. CIVIL PRACTICE
CHAPTER 11. CIVIL PRACTICE ACT
ARTICLE 2. COMMENCEMENT OF ACTION AND SERVICE

O.C.G.A. § 9-11-24

APPENDIX I – CONSTITUTIONAL AND STATUTORY PROVISIONS

(a) Intervention of right. Upon timely application anyone shall be permitted to intervene in an action:

(1) When a statute confers a conditional right to intervene; or

(2) When an applicant's claims an interest relating to the property or transaction which is the subject matter of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

(b) Permissive intervention. Upon timely application anyone may be permitted to intervene in an action:

(1) When a statute confers a conditional right to intervene; or

(2) When an applicant's claim or defense and the main action have a question of law or fact in common.

In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

(c) Procedure. A person desiring to intervene shall serve a motion to intervene upon the parties as provided in Code Section 9-11-5. The motion shall state the grounds therefore and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought. The same procedure shall be followed when a statute gives a right to intervene".

HISTORY: Ga. L. 1966, p. 609, § 24; Ga. L. 1967, p. 226, § 12; Ga. L. 1968, p. 1104, § 8.

Current through the 2008 Regular Session ~

TITLE 34. LABOR AND INDUSTRIAL RELATIONS
CHAPTER 8. EMPLOYMENT SECURITY
ARTICLE 2. DEFINITIONS

O.C.G.A. § 34-8-35 (2008)

§ 34-8-35. Employment

"(a) As used in this chapter, the term "employment" means any service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

HISTORY: Code 1981, § 34-8-43, enacted by Ga. L. 1991, p. 139, § 1.

TITLE 34. LABOR AND INDUSTRIAL RELATIONS
CHAPTER 8. EMPLOYMENT SECURITY
ARTICLE 2. DEFINITIONS

O.C.G.A. § 34-8-43 (2008)

§ 34-8-43. Most recent employer

" (a) As used in this chapter and except as otherwise provided in subsection (b) of this Code section, the term "most recent employer" means the last liable employer for whom an individual worked and:

(1) The individual was separated from work for a disqualifying reason;

(2) The individual was released or separated from work under nondisqualifying Conditions and earned wages of at least ten times the weekly benefit amount of the claim; or

(3) The employer files the claim for the individual by submitting such reports as authorized by the Commissioner."

TITLE 48. REVENUE AND TAXATION
CHAPTER 7. INCOME TAXES
ARTICLE 3. RETURNS AND FURNISHING OF INFORMATION

O.C.G.A. *§* 48-7-51 (2008)

"*§* 48-7-51. Corporation returns; contents; consolidated returns of two or more corporations; returns by receivers, trustees, and assignees; collection

Every corporation subject to taxation under this chapter shall make a return stating specifically the items of its gross income and the deductions and credits allowed by this chapter. The income of two or more corporations shall not be included in a single return except with the express consent of the commissioner. When a receiver, trustee in bankruptcy, or assignee is operating the property or business of a corporation, the receiver, trustee, or assignee shall make returns for the corporation in the same manner and form as the corporation is required to make returns. Any tax due on the basis of returns made by a receiver, trustee, or assignee shall be collected in the same manner as if collected from the corporation of whose business or property he has custody and control."

HISTORY: Ga. L. 1931, Ex. Sess., p. 24, § 25; Code 1933, § 92-3202; Ga. L. 1941, p. 210, § 9; Ga. L. 1943, p. 109, § 1; Code 1933, § 91A-3702, enacted by Ga. L. 1978, p. 309, § 2.
O.C.G.A. § 48-7-51

TITLE 48. REVENUE AND TAXATION
CHAPTER 7. INCOME TAXES
ARTICLE 3. RETURNS AND FURNISHING OF INFORMATION

O.C.G.A. § 48-7-53 (2008)

"§ 48-7-53. Partnership returns; contents; oath; "partnership" and "partner" defined

Every partnership including, but not limited to, a foreign partnership, the individual members of which are subject to taxation under this chapter, shall make a return for each taxable year. The return shall state specifically the items of the partnership's gross income and the deductions allowed by this chapter, shall include the names and addresses of the individuals who would be entitled to share in the net income of the partnership if the net income were distributed, and shall specify the amount of the distributive share of each individual. The return shall be sworn to by any one of the partners. The term "partnership" includes, but is not limited to, a syndicate, group, pool, joint venture, or other unincorporated organization through or by means of which any business, financial operation, or venture is carried on and which is not, within the meaning of this chapter, a trust, estate, or corporation. The term "partner" includes, but Is not limited to, a member in such syndicate, group, pool, joint venture, or organization.

HISTORY: Ga. L. 1931, Ex. Sess., p. 24, § 27; Code 1933, § 92-3204; Ga. L. 1935, p. 121, § 7; Code 1933, § 91A-3703, enacted by Ga. L. 1978, p. 309, § 2.

O.C.G.A. § 48-7-53

TITLE 14. CORPORATIONS, PARTNERSHIPS, AND ASSOCIATIONS
CHAPTER 11. LIMITED UABILITY COMPANIES
ARTICLE 6. EVENTS OF DISSOCIATION, WITHDRAWAL, AND DISSOLUTION

O.C.G.A. § 14-11-604 (2008)

§ 14-11-604. Winding up

(a) Except as otherwise provided in the articles of organization or a written operating agreement, upon dissolution, the members or managers in whom management of the limited liability company was vested prior to dissolution may wind up a dissolved limited liability company's affairs, or, if there are no such members or managers at the time of or at any time after such dissolution, such persons as may be designated by the persons then entitled to receive a majority of all subsequent distributions, if any, from the limited liability company may wind up the limited liability company's affairs. For cause shown, the court may wind up a dissolved limited liability company's affairs on application of any member as to which an event of dissociation has not occurred, any such member's legal representative, or any such member's assignee, or if there is no such member, legal representative, or assignee, on application of any assignee of an interest in the limited liability company.

(b) Except so far as may be appropriate to wind up the limited liability company's affairs or to complete transactions begun but not then finished, dissolution terminates all authority of every person to act for the limited liability company; provided, however, that, prior to the filing of a statement of commencement of winding up, the limited liability company shall be bound to any person who lacks knowledge of the dissolution with respect to any transaction which would bind the limited liability company if dissolution had not taken place.

HISTORY: Code 1981, § 14-11-604, enacted by Ga. L. 1993, p. 123, § 1; Ga. L. 1999, p. 822, § 5.

Title Note
Chapter Note

TITLE 14. CORPORATIONS, PARTNERSHIPS, AND ASSOCIATIONS
CHAPTER 11. LIMITED LIABILITY COMPANIES
ARTICLE 10. DISSENTERS' RIGHTS

O.C.G.A. § 14-11-1002 (2008)

§ 14-11-1002. Right to dissent

(a) Unless otherwise provided by the articles of organization or a written operating agreement, a record member of the limited liability company is entitled to dissent from, and obtain payment of the fair value of his or her membership interest in the event of, any of the following actions:

(1) Consummation of a plan of merger to which the limited liability company is a party if approval of less than all of the members of the limited liability company is required for the merger by the articles of organization or a written operating agreement and the member is entitled to vote on the merger;

(2) Consummation of a plan of conversion pursuant to Code Section 142 1109.2 or 14-11-906

(3) Consummation of a sale, lease, exchange, or other disposition of all or substantially all of the property of the limited liability company if approval of less than all of the members is required by the articles of organization or a written operating agreement and the member is entitled to vote on the sale, lease, exchange, or other disposition, but not including a sale pursuant to court order or a sale for cash pursuant to a plan by which all or substantially all of the net proceeds of the sale will be distributed to the members within one year after the date of sale;

(4) An amendment of the articles of organization that materially and adversely

affects rights in respect of a dissenter's membership interest in the limited liability company because it:

(A) Alters or abolishes a preferential right of the member's interest;

(B) Creates, alters, or abolishes a right in respect of redemption, including a provision respecting a sinking fund for the redemption or repurchase, of the membership interest;

(C) Alters or abolishes a preemptive right of the holder of the membership interest to acquire additional interest or other securities;

(D) Excludes or limits the right of the member to vote on any matter, other than a limitation by dilution through additional member contributions or other securities with similar voting rights; or

(E) Cancels, redeems, or repurchases all or part of the membership interest of the class; or

(5) Any limited liability company action taken pursuant to a member vote to the extent that the articles of organization or a written operating agreement provides that voting or nonvoting members are entitled to dissent and obtain payment for their membership interests.

(b) A member entitled to dissent and obtain payment for his or her membership interest under this article may not challenge the limited liability company action creating his or her entitlement unless the limited liability company action fails to comply with procedural requirements of this chapter, the articles of organization, or the written operating agreement or if the vote required to obtain approval of the limited liability company action was obtained by fraudulent and deceptive means, regardless of whether the member has exercised dissenters' rights.

HISTORY: Code 1981, § 14-11-1002, enacted by Ga. L. 1993, p. 123, § 1; Ga. L. 2006, p. 825, § 28/SB 469.